

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER

DO NOT WRITE IN THIS SPACE

Case

14-CA-29790

Date Filed

7/7/09

INSTRUCTIONS:

File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

a. Name of Employer Cotton Babies, Inc.		b. Tel. No. (888)332-2243
		c. Cell No. (b) (6), (b) (7)(C)
d. Address (Street, city, state, and ZIP code) 6110 Baumgartner Crossing St. Louis MO 63129-		e. Employer Representative (b) (6), (b) (7)(C)
		f. Fax No. () - 314 584-2121
		g. e-Mail CONTACT US @ COTTON BABIES.COM
		h. Number of workers employed 40
i. Type of Establishment (factory, mine, wholesaler, etc.) call center and shipping center		j. Identify principal product or service baby products
k. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (list subsections) <u>SECTION 7</u> of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.		

2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)

The above-named Employer, by its officers, agents and representatives, within the past six months, has interfered with, restrained and coerced its employees in the exercise of their rights guaranteed by Section 7 of the Act, as amended, by acts and conduct including maintaining and promulgating a rule that prohibits employees from discussing their wages and working conditions with each other.

3. Full name of party filing charge (if labor organization, give full name, including local name and number)

(b) (6), (b) (7)(C)

4a. Address (Street and number, city, state, and ZIP code)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

4b. Tel. No.

(b) (6), (b) (7)(C)

4b. Cell No.

(b) (6), (b) (7)(C)

4d. Fax No.

() -

4e. e-Mail

(b) (6), (b) (7)(C)

5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization)

6. DECLARATION

I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.

(b) (6), (b) (7)(C)

Individual

(b) (6), (b) (7)(C)

Filing charge)

(Print/type name and title or office, if any)

Address

(b) (6), (b) (7)(C)

6 Jul 2007
(date)

(b) (6), (b) (7)(C)

Office, if any, Cell No.

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

Fax No.

() - SAME AS

(b) (6), (b) (7)(C)

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S.C. 1001)

PRIVACY ACT STATEMENT

(b) (6), (b) (7)(C)

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 14

Cotton Babies, Inc.

and

(b) (6), (b) (7)(C) an Individual

Case 14-CA-29790

DATE OF
MAILING

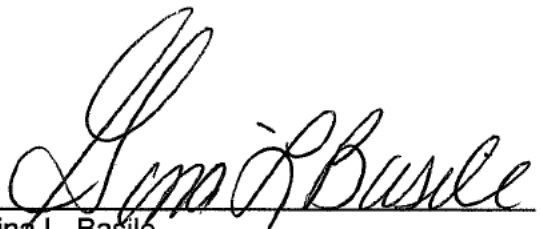
July 7, 2009

AFFIDAVIT OF SERVICE OF Charge Against Employer

I, the undersigned employee of the National Labor Relations Board, being duly sworn, depose and say that on the date indicated above I served the above-entitled document(s) by post-paid regular mail upon the following persons, addressed to them at the following addresses:

(b) (6), (b) (7)(C)

Cotton Babies, Inc.
6116 Baumgartner Crossing
St. Louis, MO 63129


Gina L. Basile

Subscribed and sworn to before me on

July 8, 2009

NATIONAL LABOR RELATIONS BOARD

DESIGNATED AGENT

Case Service Sheet**As of 9/1/2009****Case Number:** 14-CA-29790-001**Case Name:** Cotton Babies, Inc.**Charged Party #1 Party:**

Cotton Babies, Inc.
6116 Baumgartner Crossing
St. Louis, MO 63129

Point of Contact:**(b) (6), (b) (7)(C)****Phone:** (888)332-2243**Fax:** (314)584-2121**Cell:** (b) (6), (b) (7)(C)**E-Mail:** (b) (6), (b) (7)(C)@cottonbabies.com**Charged Party #1 Legal Representative #1:**

Sandberg Phoenix & von Gontard P.C.
One City Centre, 15th Floor
515 North Sixth Street
St. Louis, MO 63101-1880

Point of Contact:

Mr. Bryan P. Cavanaugh, Attorney

Phone: (314)446-4221**Fax:** (314)241-7604**Cell:****E-Mail:** bcavanaugh@sandbergphoenix.com**Charging Party #1 Party:****Point of Contact:****(b) (6), (b) (7)(C)****Phone:** (b) (6), (b) (7)(C)**Fax:** (b) (6), (b) (7)(C)**Cell:** (b) (6), (b) (7)(C)**(b) (6), (b) (7)(C)****E-Mail:** (b) (6), (b) (7)(C)

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 14

COTTON BABIES, INC.

and

(b) (6), (b) (7)(C) an Individual

Case 14-CA-29789

and

(b) (6), (b) (7)(C) an Individual

Case 14-CA-29790

**ORDER CONSOLIDATING CASES,
COMPLAINT AND NOTICE OF HEARING**

(b) (6), (b) (7)(C) an Individual, has charged in Case 14-CA-29789, and (b) (6), (b) (7)(C) an Individual, has charged in Case 14-CA-29790, that Cotton Babies, Inc., here called Respondent, has been engaging in unfair labor practices as set forth in the National Labor Relations Act, 29 U.S.C. Section 151 et seq., here called the Act. Based thereon, and in order to avoid unnecessary costs or delay, the General Counsel, by the undersigned, pursuant to Section 102.33 of the Rules and Regulations of the National Labor Relations Board, here called the Board, ORDERS that these cases are consolidated.

These cases having been consolidated, the General Counsel, by the undersigned, pursuant to Section 10(b) of the Act and Section 102.15 of the Rules and Regulations, issues this Order Consolidating Cases, Complaint and Notice of Hearing and alleges as follows:

1

A. The charge in Case 14-CA-29789 was filed by (b) (6), (b) (7)(C) on July 7, 2009, and a copy was served by regular mail on Respondent on that same date.

B. The amended charge in Case 14-CA-29789 was filed by (b) (6), (b) (7)(C) on August 28, 2009, and a copy was served by regular mail on Respondent on September 1, 2009.

C. The charge in Case 14-CA-29790 was filed by (b) (6), (b) (7)(C) on July 7, 2009, and a copy was served by regular mail on that same date.

2

A. At all material times, Respondent, a Missouri corporation, with an office and place of business in St. Louis, Missouri, here called Respondent's facility, has been engaged in the operation of a retail store, call center, and shipping center for baby products.

B. During the 12-month period ending August 31, 2009, Respondent, in conducting its business operations described above in subparagraph 2A, derived gross revenues in excess of \$500,000.

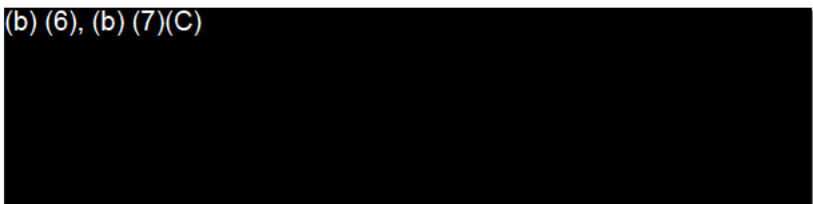
C. During the 12-month period ending August 31, 2009, Respondent, in conducting its business operations described above in subparagraph 2A, purchased and received at its St. Louis, Missouri facility goods valued in excess of \$50,000 directly from points outside the State of Missouri.

D. At all material times, Respondent has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

3

A. At all material times, the following individuals held the positions set forth opposite their respective names and have been supervisors of Respondent within the meaning of Section 2(11) of the Act and agents of Respondent within the meaning of Section 2(13) of the Act:

(b) (6), (b) (7)(C)



B. At all material times, (b) (6), (b) (7)(C) held the position of (b) (6), (b) (7)(C) and has been an agent of Respondent within the meaning of Section 2(13) of the Act.

4

A. Since about January 8, 2009, Respondent has maintained in its Employee Manual the following provisions that have been enforced to prohibit employees from discussing wages, hours, and other terms and conditions of employment:

i. Section 2 Employment Policies

2.2 Non-Disclosure/Confidentiality

The protection of confidential business information and trade secrets is vital to the interests and success of Cotton Babies, Inc. Such confidential information includes, but is not limited to, the following examples:

- Compensation data
- Financial information
- Personnel/Payroll records
- Conversations between any persons associated with the company

Employees who improperly use or disclose trade secrets or confidential business information will be subject to disciplinary action, including termination of employment and legal action, even if they do not actually benefit from the disclosed information.

ii. Section 3 Standards of Conduct

The work rules and standards of conduct for Cotton Babies, Inc. are important, and the Company regards them seriously. . . . any employee who deviates from these rules and standards will be subject to corrective action, up to and including termination of employment . . .

. . . the following are examples of rule infractions or misconduct that may result in disciplinary action, including termination of employment.

- Constant complaining/depressed attitude toward other employees and customers
- Hurtful conversation about anybody else in the workplace
- Boisterous or disruptive activity in the workplace

- Unauthorized disclosure of business "trade secrets" or confidential information
- Violation of personnel policies

B. In about early April 2009, Respondent, by (b) (6), (b) (7)(C) told an employee to remind other employees that they could not talk about their wage increases with other employees.

C. About the second week of April 2009, Respondent, by its agent (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) told employees not to discuss their wage increases with other employees.

- D. On about June 3, 2009, Respondent, by (b) (6), (b) (7)(C) told an employee:
- employees were prohibited from discussing their wages with each other, as stated in the Employee Manual that the employee signed; and
 - as a condition for continued employment, the employee had to re-read and re-sign the Employee Manual and abide by its rules.

E. Between about June 4 and June 17, 2009, Respondent, by (b) (6), (b) (7)(C) called an employee into (b) (6), (b) (7) office; and

- interrogated the employee about the employee's protected concerted activity; and
- told the employee to apologize to employees for engaging in such activity.

F. On about June 18, 2009, Respondent, by (b) (6), (b) (7)(C) gave an employee a copy of the Employee Manual and told the employee that (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) wanted the employee to read and sign the Employee Manual.

G. On about June 23, 2009, Respondent placed an Employee Manual on the desk of an employee with a note from (b) (6), (b) (7)(C) stating that the employee should carefully read and re-sign the Employee Manual.

H. On about (b) (6), (b) (7)(C) 2009, Respondent, by (b) (6), (b) (7)(C) called an employee into (b) (6), (b) (7)(C) office; and

- i. repeatedly asked the employee to sign the Employee Manual and advised the employee would not be able to continue employment unless the employee signed the Employee Manual; and
- ii. When the employee refused to sign, told the employee that the employee should gather the employee's personal belongings and leave Respondent's facility.

5

A. On various dates in June 2009, Respondent's employee (b) (6), (b) (7)(C) engaged in concerted activities by speaking with another employee regarding the wages, hours, and working conditions of Respondent's employees, including employees receiving a different percentage wage increase.

B. On about (b) (6), (b) (7)(C) 2009, Respondent discharged employee (b) (6), (b) (7)(C)

C. Respondent engaged in the conduct described above in subparagraph 5B because employee (b) (6), (b) (7)(C) engaged in the conduct described above in subparagraph 5A and to discourage employees from engaging in these or other concerted activities.

6

By the conduct described above in paragraphs 4 and 5, Respondent has been interfering with, restraining, and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act in violation of Section 8(a)(1) of the Act.

7

The unfair labor practices of Respondent described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

WHEREFORE, as part of the remedy for Respondent's unfair labor practices alleged above in paragraph 5, the General Counsel seeks an Order requiring that interest on any backpay award be compounded on a quarterly basis.

ANSWER REQUIREMENT

Respondent is notified that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, it must file an answer to the Order Consolidating Cases, Complaint and Notice of Hearing. The answer must be **received by this office on or before September 23, 2009 or postmarked on or before September 22, 2009**. Unless filed electronically in a pdf format, Respondent should file an original and four copies of the answer with this office and serve a copy of the answer on each of the other parties.

An answer may also be filed electronically by using the E-Filing system on the Agency's website. In order to file an answer electronically, access the Agency's website at <http://www.nlr.gov>, click on **E-Gov**, then click on the **E-Filing** link on the pull-down menu. Click on the "File Documents" button under "Regional, Subregional and Resident Offices" and then follow the directions. The responsibility for the receipt and usability of the answer rests exclusively upon the sender. Unless notification on the Agency's website informs users that the Agency's E-Filing system is officially determined to be in technical failure because it is unable to receive documents for a continuous period of more than 2 hours after 12:00 noon (Eastern Time) on the due date for filing, a failure to timely file the answer will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off-line or unavailable for some other reason. The Board's Rules and Regulations require that an answer be signed by counsel or non-attorney representative for represented parties or by the party if not represented. See Section 102.21. If the answer being filed electronically is a pdf document containing the required signature, no paper copies of the answer need to be transmitted to the Regional Office. However, if the electronic version of an answer to a complaint is not a pdf file containing the required signature, then the E-filing rules require that such answer containing the required signature be submitted to the Regional Office by traditional means within three (3) business days after the date of electronic filing.

Service of the answer on each of the other parties must be accomplished in conformance with the requirements of Section 102.114 of the Board's Rules and Regulations. The answer may not be filed by facsimile transmission. If no answer is filed or if an answer is filed untimely, the Board may find, pursuant to Motion for Default Judgment, that the allegations in the Order Consolidating Cases, Complaint and Notice of Hearing are true.

NOTICE OF HEARING

PLEASE TAKE NOTICE THAT on **October 19, 2009**, at **1 p.m.**, or as soon thereafter as you may be heard, and on consecutive days thereafter until concluded, a hearing will be conducted at **1222 Spruce Street, Room 8.302, Saint Louis, Missouri** before an Administrative Law Judge of the National Labor Relations Board. At the hearing, Respondent and any other party to this proceeding have the right to appear and present testimony regarding the allegations in this complaint. The procedures to be followed at the hearing are described in the attached Form NLRB-4668. The procedure to request a postponement of the hearing is described in the attached Form NLRB-4338.

Dated at St. Louis, Missouri, this 9th day of September 2009.



Ralph R. Tremain, Regional Director
National Labor Relations Board
Region 14
1222 Spruce Street, Room 8.302
St. Louis, Missouri 63103-2829

Attachments

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

NOTICE

Case 14-CA-29789 & 14-CA-29790

The issuance of the notice of formal hearing in this case does not mean that the matter cannot be disposed of by agreement of the parties. On the contrary, it is the policy of this office to encourage voluntary adjustments. The examiner or attorney assigned to the case will be pleased to receive and to act promptly upon your suggestions or comments to this end. An agreement between the parties, approved by the Regional Director, would serve to cancel the hearing.

However, unless otherwise specifically ordered, the hearing will be held at the date, hour, and place indicated. Postponements **will not be granted** unless good and sufficient grounds are shown **and** the following requirements are met:

- (1) The request must be in writing. An original and two copies must be filed with the Regional Director when appropriate under 29 CFR 102.16(a) or with the Division of Judges when appropriate under 29 CFR 102.16(b).
- (2) Grounds thereafter must be set forth in **detail**;
- (3) Alternative dates for any rescheduled hearing must be given;
- (4) The positions of all other parties must be ascertained in advance by the requesting party and set forth in the request; **and**
- (5) Copies must be simultaneously served on all other parties (*listed below*), and that fact must be noted on the request.

Except under the most extreme conditions, no request for postponement will be granted during the three days immediately preceding the date of hearing.

(b) (6), (b) (7)(C)

Cotton Babies, Inc.
6116 Baumgartner Crossing
St. Louis, MO 63129

Mr. Bryan P. Cavanaugh, Attorney
Sandberg Phoenix & von Gontrud P.C.
One City Centre, 15th Floor
515 North Sixth Street
St. Louis, MO 63101-1880

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

**SUMMARY OF STANDARD PROCEDURES IN FORMAL HEARINGS HELD
BEFORE THE NATIONAL LABOR RELATIONS BOARD
IN UNFAIR LABOR PRACTICE PROCEEDINGS PURSUANT TO
SECTION 10 OF THE NATIONAL LABOR RELATIONS ACT**

The hearing will be conducted by an administrative law judge of the National Labor Relations Board who will preside at the hearing as an independent, impartial finder of the facts and applicable law whose decision in due time will be served on the parties. The offices of the administrative law judges are located in Washington, DC; San Francisco, California; New York, N.Y.; and Atlanta, Georgia.

At the date, hour, and place for which the hearing is set, the administrative law judge, upon the joint request of the parties, will conduct a "prehearing" conference, prior to or shortly after the opening of the hearing, to ensure that the issues are sharp and clearcut; or the administrative law judge may independently conduct such a conference. The administrative law judge will preside at such conference, but may, if the occasion arises, permit the parties to engage in private discussions. The conference will not necessarily be recorded, but it may well be that the labors of the conference will be evinced in the ultimate record, for example, in the form of statements of position, stipulations, and concessions. Except under unusual circumstances, the administrative law judge conducting the prehearing conference will be the one who will conduct the hearing; and it is expected that the formal hearing will commence or be resumed immediately upon completion of the prehearing conference. No prejudice will result to any party unwilling to participate in or make stipulations or concessions during any prehearing conference.

(This is not to be construed as preventing the parties from meeting earlier for similar purposes. To the contrary, the parties are encouraged to meet prior to the time set for hearing in an effort to narrow the issues.)

Parties may be represented by an attorney or other representative and present evidence relevant to the issues. All parties appearing before this hearing who have or whose witnesses have handicaps falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.603, and who in order to participate in this hearing need appropriate auxiliary aids, as defined in 29 C.F.R. 100.603, should notify the Regional Director as soon as possible and request the necessary assistance.

An official reporter will make the only official transcript of the proceedings, and all citations in briefs and arguments must refer to the official record. The Board will not certify any transcript other than the official transcript for use in any court litigation. Proposed corrections of the transcript should be submitted, either by way of stipulation or motion, to the administrative law judge for approval.

All matter that is spoken in the hearing room while the hearing is in session will be recorded by the official reporter unless the administrative law judge specifically directs off-the-record discussion. In the event that any party wishes to make off-the-record statements, a request to go off the record should be directed to the administrative law judge and not to the official reporter.

Statements of reasons in support of motions and objections should be specific and concise. The administrative law judge will allow an automatic exception to all adverse rulings and, upon appropriate order, an objection and exception will be permitted to stand to an entire line of questioning.

All exhibits offered in evidence shall be in duplicate. Copies of exhibits should be supplied to the administrative law judge and other parties at the time the exhibits are offered in evidence. If a copy of any exhibit is not available at the time the original is received, it will be the responsibility of the party offering such exhibit to submit the copy to the administrative law judge before the close of hearing. In the event such copy is not submitted, and the filing has not been waived by the administrative law judge, any ruling receiving the exhibit may be rescinded and the exhibit rejected.

Any party shall be entitled, on request, to a reasonable period of time at the close of the hearing for oral argument, which shall be included in the transcript of the hearing. In the absence of a request, the administrative law judge may ask for oral argument if, at the close of the hearing, it is believed that such argument would be beneficial to the understanding of the contentions of the parties and the factual issues involved.

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 14

COTTON BABIES, INC.

and

(b) (6), (b) (7)(C) an Individual

and

(b) (6), (b) (7)(C) an Individual

Case 14-CA-29789

Case 14-CA-29790

DATE OF MAILING September 9, 2009

AFFIDAVIT OF SERVICE OF: Order Consolidating Cases, Complaint and Notice of Hearing (with forms NLRB-4338 and NLRB-4668 attached)

I, the undersigned employee of the National Labor Relations Board, being duly sworn, depose and say that on the date indicated above I served the above-entitled document(s) by post-paid certified mail upon the following persons, addressed to them at the following addresses:

Copies sent by regular mail:

(b) (6), (b) (7)(C)


Cotton Babies, Inc.
6116 Baumgartner Crossing
St. Louis, MO 63129
(Respondent)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

Mr. Bryan P. Cavanaugh, Attorney
Sandberg Phoenix & von Gontrad P.C.
One City Centre, 15th Floor
515 North Sixth Street
St. Louis, MO 63101-1880
(Respondent's Attorney)


Carlisa Caine-Coleman

Subscribed and sworn to before me on

September 10, 2009

NATIONAL LABOR RELATIONS BOARD


DESIGNATED AGENT

2000 21 11 8.04

Case 14-CA-29790

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A. Cotton Babies admits the allegations in paragraph 3A. of the Board's Complaint.

B. Cotton Babies admits the allegations in paragraph 3B of the Board's Complaint to the extent that at some times, but not all times, (b) (6), (b) (7)(C) held the position of (b) (6), (b) (7)(C). (b) (6), (b) (7)(C) Cotton Babies denies (b) (6), (b) (7)(C) was an agent of Cotton Babies within the meaning of Section 2(13) of the Act.

A. Cotton Babies admits it issued an updated Employee Manual on or about January 8, 2009, and that paragraph 4A. accurately quotes portions of that Employee Manual. Cotton Babies denies all remaining allegations in paragraph 4A. of the Board's Complaint.

B. Cotton Babies denies the allegations in paragraph 4B. of the Board's Complaint.

C. Cotton Babies denies the allegations in paragraph 4C. of the Board's Complaint.

D. Cotton Babies denies the allegations in paragraph 4D., and its subparts, of the Board's Complaint.

E. Cotton Babies denies the allegations in paragraph 4E., and its subparts, of the Board's Complaint.

F. Cotton Babies admits the allegations in paragraph 4F. of the Board's Complaint.

G. Cotton Babies admits the allegations in paragraph 4G. of the Board's Complaint.

H. Cotton Babies admits the allegations in paragraph 4H. of the Board's Complaint but denies the allegations in paragraph 4H.ii. to the extent the allegations in that sub-paragraph allege or imply that the sole reason for (b) (6), (b) (7)(C) termination was (b) (6), (b) (7)(C) refusal to re-read and re-sign the Employee Manual on (b) (6), (b) (7)(C) 2009.

A. Cotton Babies has no knowledge sufficient to form a belief of the truth of the allegations in paragraph 5A. of the Board's Complaint and, therefore, denies them.

B. Cotton Babies admits the allegations in paragraph 5B. of the Board's Complaint.

C. Cotton Babies denies the allegations in paragraph 5C. of the Board's Complaint.

Cotton Babies denies the allegations in paragraph 6 of the Board's Complaint.

Cotton Babies denies the allegations in paragraph 7 of the Board's Complaint.

Further answering, Cotton Babies denies each and every allegation, in singular or plural, that has not been specifically admitted herein as true.

Further answering, Cotton Babies was never apprised of certain material factual allegations in the Complaint; and, therefore, has not been given the opportunities for submission delineated in Rule 101.4 and 101.7 of the National Labor Relation Board's Statements of Procedures, as amended. Cotton Babies has not been afforded an opportunity to submit for consideration a statement of position, facts, arguments, or offers of settlement as required by Rules 101.4 and 101.7 prior to the issuance of the Complaint containing those certain new allegations. Time constraints, the nature of the proceedings, and the public interest do not dictate denial of these important rights.

WHEREFORE, Cotton Babies requests the Board's Complaint be denied and dismissed, that an Order be entered in favor of Cotton Babies, that the Board be denied all the legal and equitable relief it seeks, and that other proper relief be granted.

FIRST DEFENSE

The Board's Complaint fails to allege facts sufficient to support the charge that Cotton Babies engaged in or is engaging in unfair labor practices as set forth and defined by the National Labor Relations Act, as amended.

SECOND DEFENSE

(b) (6), (b) (7)(C) has failed to mitigate her damages, if any.

THIRD DEFENSE

Each employment decision concerning (b) (6), (b) (7)(C) including (b) (6), (b) (7) employment termination of (b) (6), (b) (7)(C) 2009, was based on legitimate non-discriminatory reasons unrelated to (b) (6), (b) (7)(C) alleged engaging in concerted activities, and Cotton Babies would have made the same employment decisions regardless of (b) (6), (b) (7)(C) alleged engaging in concerted activities.

FOURTH DEFENSE

To the extent the Board has alleged any unfair employment practices or violations of the Act that were not encompassed by a Charge filed with the National Labor Relations Board, the Administrative Law Judge lacks jurisdiction to entertain those allegations because the Board and/or (b) (6), (b) (7)(C) and/or (b) (6), (b) (7)(C) has failed to exhaust all mandatory administrative requirements.

FIFTH DEFENSE

All or part of the Complaint may be barred by the equitable defenses of laches, waiver, and/or estoppel.

SIXTH DEFENSE

Even if (b) (6), (b) (7)(C) engaged in protected and/or concerted activity, (b) (6), (b) (7)(C) conduct merited (b) (6), (b) (7)(C) discharge on (b) (6), (b) (7)(C) 2009.

SEVENTH DEFENSE

Cotton Babies was not aware that (b) (6), (b) (7)(C) engaged in alleged protected and/or concerted activity, yet, (b) (6), (b) (7)(C) conduct unrelated to the alleged protected and/or concerted activity served as the basis for (b) (6), (b) (7)(C) discharge.

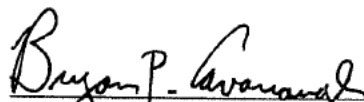
EIGHTH DEFENSE

(b) (6), (b) (7)(C) engaged in unprofessional conduct that brought (b) (6), (b) (7)(C) outside the protection of the Act, even assuming (b) (6), (b) (7)(C) was engaged in concerted and/or protected activities.

WHEREFORE, Cotton Babies requests the Board's Complaint be denied and dismissed, that an Order be entered in favor of Cotton Babies, that the Board be denied all the legal and equitable relief it seeks, and that other proper relief be granted.

SANDBERG PHOENIX & von GONTARD P.C.

By:



Thomas E. Berry, Jr., #38433

Bryan P. Cavanaugh, #50013

One City Centre, 15th Floor

St. Louis, MO 63101-1880

314-231-3332

314-241-7604 (Fax)

E-mail: tberry@sandbergphoenix.com

bcavanaugh@sandbergphoenix.com

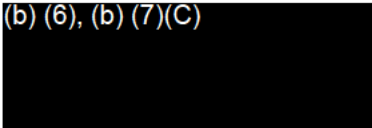
Attorneys for Cotton Babies, Inc.

Certificate of Service

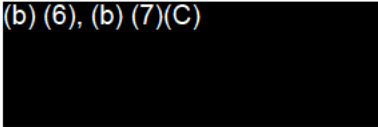
The undersigned certifies that a copy of the foregoing was sent by United States mail, postage pre-paid, this 23rd day of September, 2009, to the following:

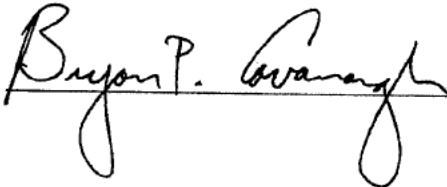
Mr. Ralph R. Tremain
Regional Director
National Labor Relations Board
Region 14
1222 Spruce Street, Room 8.302
St. Louis, MO 63103-2829

(b) (6), (b) (7)(C)

A black rectangular redaction box covering several lines of text.

(b) (6), (b) (7)(C)

A black rectangular redaction box covering several lines of text.

A handwritten signature in cursive script, reading "Bryan P. Gwary", written over a horizontal line.

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 14**

COTTON BABIES, INC.

and

Cases 14-CA-29789
and 14-CA-29790

(b) (6), (b) (7)(C) an Individual


and

(b) (6), (b) (7)(C) an Individual

ORDER RESCHEDULING HEARING

IT IS HEREBY ORDERED that the hearing in the above-entitled matter is rescheduled from October 19, 2009 to November 17, 2009, at 9 a.m., or as soon thereafter as you may be heard, at 1222 Spruce Street, Room 8.302, Saint Louis, Missouri.

October 14, 2009



Ralph R. Tremain, Regional Director
National Labor Relations Board
Region 14
1222 Spruce Street, Room 8.302
St. Louis, Missouri 63103-2829

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 14

COTTON BABIES, INC.

and

(b) (6), (b) (7)(C) an Individual

and

(b) (6), (b) (7)(C) an Individual

Cases 14-CA-29789
and 14-CA-29790

DATE OF
MAILING October 14, 2009

AFFIDAVIT OF SERVICE OF ORDER RESCHEDULING HEARING

I, the undersigned employee of the National Labor Relations Board, being duly sworn, depose and say that on the date indicated above I served the above-entitled document(s) by post-paid regular mail upon the following persons, addressed to them at the following addresses:

(b) (6), (b) (7)(C)

Cotton Babies, Inc.
6116 Baumgartner Crossing
St. Louis, MO 63129
(Respondent)

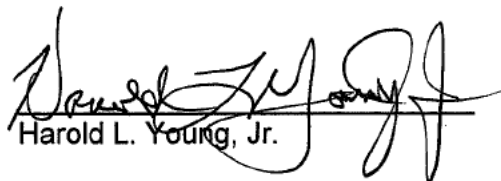
Mr. Bryan P. Cavanaugh, Attorney
Sandberg Phoenix & von Gontrud P.C.
One City Centre, 15th Floor
515 North Sixth Street
St. Louis, MO 63101-1880
(Respondent's Attorney)

(b) (6), (b) (7)(C)

(Charging Party in Case 14-CA-29789)

(b) (6), (b) (7)(C)

(Charging Party in Case 14-CA-29790)


Harold L. Young, Jr.

Subscribed and sworn to before me on

October 15, 2009

NATIONAL LABOR RELATIONS BOARD


DESIGNATED AGENT

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 14**

COTTON BABIES, INC.

and

Cases 14-CA-29789
and 14-CA-29790

(b) (6), (b) (7)(C), an Individual

and

(b) (6), (b) (7)(C), an Individual

ORDER RESCHEDULING HEARING

IT IS HEREBY ORDERED that the hearing in the above-entitled matter is rescheduled from October 19, 2009 to November 17, 2009, at 9 a.m., or as soon thereafter as you may be heard, at 1222 Spruce Street, Room 8.302, Saint Louis, Missouri.

November 1, 2021

Ralph R. Tremain, Regional Director
National Labor Relations Board
Region 14
1222 Spruce Street, Room 8.302
St. Louis, Missouri 63103-2829

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 14

COTTON BABIES, INC.

and

(b) (6), (b) (7)(C) *an Individual*

and

(b) (6), (b) (7)(C) *an Individual*

Case 14-CA-29789

Case 14-CA-29790

RESPONDENT COTTON BABIES, INC.'S MOTION TO RESET HEARING
FOR NOVEMBER 18, 2009

COMES NOW Respondent, Cotton Babies, Inc., by and through its attorneys, Sandberg Phoenix & von Gontard P.C., and pursuant to Section 102.24 of the National Labor Relations Board's Rules and Regulations, moves the Board to continue the hearing in this matter from Monday, October 19, 2009 to Wednesday, November 18, 2009. This motion is unopposed, and Charging Parties, (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) as well as the Board's attorney, Kathy Talbot-Schehl, all consent to the granting of this motion. In support of this motion, Cotton Babies states:

1. The Board set this case for hearing on Monday, October 19, 2009. A necessary witness in this case, (b) (6), (b) (7)(C) had a pre-scheduled personal commitment the entire week of October 19, 2009. (b) (6), (b) (7)(C) was committed to being out of state and unavailable for the October 19, 2009 hearing.

2. Counsel for Cotton Babies notified counsel for the Board, Kathy Talbot-Schehl, of the unavailability of this necessary witness, and Ms. Talbot-Schehl advised counsel for Cotton Babies that she was available during the week of November 16, 2009—and specifically on

Wednesday, November 18, 2009—for a rescheduled hearing, and that the Board would not oppose Cotton Babies' motion for continuance to that date.

3. Counsel for Cotton Babies explained the reasons for this motion to Charging Party (b) (6), (b) (7)(C) on October 2, 2009, and (b) (6), (b) (7)(C) advised (b) (6), (b) (7) was available on Wednesday, November 18, 2009 for the hearing and that (b) (6), (b) (7) did not oppose Cotton Babies motion for continuance of the hearing to November 18, 2009.

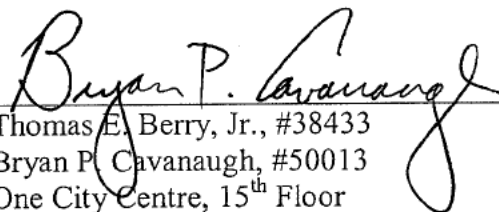
4. Counsel for Cotton Babies explained the reasons for this motion to Charging Party (b) (6), (b) (7)(C) on October 5, 2009, and (b) (6), (b) (7)(C) advised (b) (6), (b) (7) was available on Wednesday, November 18, 2009 for the hearing and that (b) (6), (b) (7) did not oppose Cotton Babies motion for continuance of the hearing to November 18, 2009.

5. Cotton Babies will be prepared to present its evidence and testimony of witnesses on November 18, 2009.

6. This motion is brought not for purposes of delay or for any improper purpose, and no prejudice will result to the rights of any party if this motion is granted.

WHEREFORE, Respondent Cotton Babies, Inc. requests the hearing be postponed from October 19, 2009 to November 18, 2009, and that other proper relief be granted.

SANDBERG PHOENIX & von GONTARD P.C.

By: 
Thomas E. Berry, Jr., #38433
Bryan P. Cavanaugh, #50013
One City Centre, 15th Floor
St. Louis, MO 63101-1880
314-231-3332
314-241-7604 (Fax)
E-mail: tberry@sandbergphoenix.com
bcavanaugh@sandbergphoenix.com

Attorneys for Cotton Babies, Inc.

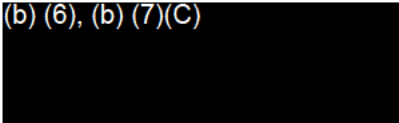
Certificate of Service

The undersigned certifies that a copy of the foregoing was sent by United States mail, postage pre-paid, this 12th day of October, 2009, to the following counsel of record:

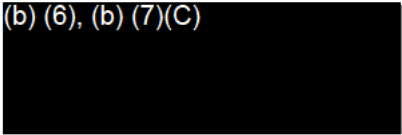
Mr. Ralph R. Tremain
Regional Director
National Labor Relations Board
Region 14
1222 Spruce Street, Room 8.302
St. Louis, MO 63103-2829

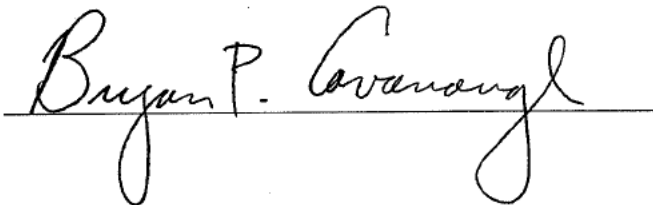
Ms. Kathy Talbot-Schehl
National Labor Relations Board
Region 14
1222 Spruce Street, Room 8.302
St. Louis, MO 63103-2829

(b) (6), (b) (7)(C)

A solid black rectangular redaction box covering several lines of text.

(b) (6), (b) (7)(C)

A solid black rectangular redaction box covering several lines of text.

A handwritten signature in cursive script, reading "Bryan P. Cavanaugh", written over a horizontal line.

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 14**

COTTON BABIES, INC.

and

Cases 14-CA-29789
and 14-CA-29790

(b) (6), (b) (7)(C) an Individual

and

(b) (6), (b) (7)(C) an Individual

ORDER RESCHEDULING HEARING

IT IS HEREBY ORDERED that the hearing in the above-entitled matter is rescheduled from November 17, 2009 to December 7, 2009, at 1 p.m., or as soon thereafter as you may be heard, at 1222 Spruce Street, Room 8.302, Saint Louis, Missouri.

November 13, 2009



Ralph R. Tremain, Regional Director
National Labor Relations Board
Region 14
1222 Spruce Street, Room 8.302
St. Louis, Missouri 63103-2829

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 14

COTTON BABIES, INC.

and

(b) (6), (b) (7)(C) an Individual

and

(b) (6), (b) (7)(C) an Individual

Cases 14-CA-29789
and 14-CA-29790

DATE OF
MAILING November 13, 2009

AFFIDAVIT OF SERVICE OF

ORDER RESCHEDULING HEARING

I, the undersigned employee of the National Labor Relations Board, being duly sworn, depose and say that on the date indicated above I served the above-entitled document(s) by post-paid regular mail upon the following persons, addressed to them at the following addresses:

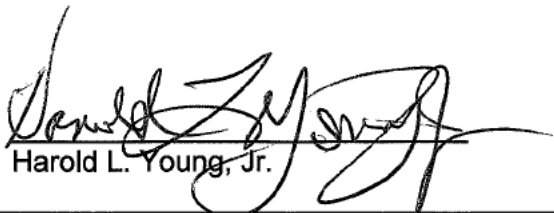
(b) (6), (b) (7)(C)

Cotton Babies, Inc.
6116 Baumgartner Crossing
St. Louis, MO 63129
(Respondent)

Mr. Bryan P. Cavanaugh, Attorney
Sandberg Phoenix & von Gontrad P.C.
One City Centre, 15th Floor
515 North Sixth Street
St. Louis, MO 63101-1880
(Respondent's Attorney)

(b) (6), (b) (7)(C)

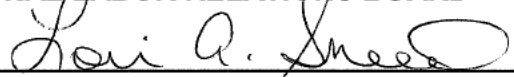
(b) (6), (b) (7)(C)


Harold L. Young, Jr.

Subscribed and sworn to before me on

November 16, 2009

NATIONAL LABOR RELATIONS BOARD


DESIGNATED AGENT

FORM NLRB-601

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

CONDITIONAL WITHDRAWAL REQUEST

In the matter of Cotton Babies, Inc.

Case 14-CA-29790

SAINT LOUIS 10 63106

2009 DEC -2 AM 10:49

RECEIVED
NLRB REGION 14

This is to request withdrawal of the charge in the above case conditioned upon receipt of all of the back pay due Charging Party (b) (6), (b) (7)(C) in Case 14-CA-29789 due on February 28, 2010.

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

Individual

Party Filing

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

Date: 12/2/09

Withdrawal request approved

12-3-09

(Date)

Ralph R. Tremain, Regional Director
National Labor Relations Board

**NATIONAL LABOR RELATIONS BOARD
REGIONAL OFFICE CLOSED CASE REPORT**

CHECK ☐ IF WASHINGTON
APPROVAL BEING REQUESTED

INSTRUCTIONS: Submit one copy to Operations Management. (Check appropriate blocks)

☐ Formal Compliance ☐ Informal Compliance ☒ Non-Board Settlement ☐ Complaint Auth by Region ☐ Complaint Auth by Office of Appeals

CASE NO. (All case nos. starting with key case no.) 14-CA-29789 & 14-CA-29790	CASE NAME Cotton Babies, Inc.	
DATE FILED July 7, 2009 DATE CLOSED (If Washington approval requested, enter date of approval as date closed). December 2, 2009 ALLEGATIONS UPHOLD OR ADJUSTED EXAMPLE: 8(a)(1)(3), 8(b)(1)(A)(2) 8(a)(1), 8(a)(2)	CLOSING STAGE OF CASE: Check One Indicate formal document with which compliance was achieved. If "Supplemental" or "Stipulated" indicate beside pertinent document. <input type="checkbox"/> 00 - Pre-Complaint or 10K Notice of Hearing <input checked="" type="checkbox"/> 01 - After Complaint or 10K NOH, before Hearing <input type="checkbox"/> 02 - After Hearing Opened, before Hearing closed <input type="checkbox"/> 03 - After Hearing Closed <input type="checkbox"/> 04 - After ALJ Decision <input type="checkbox"/> 05 - After Board Order - Automatic Decision <input type="checkbox"/> 06 - After Board Order - Stipulated Decision <input type="checkbox"/> 07 - After Board Order - Contested Decision <input type="checkbox"/> 08 - After Consent Court Judgment <input type="checkbox"/> 09 - After Contested Court Judgment <input type="checkbox"/> 10 - After Supreme Court Judgment <input type="checkbox"/> 11 - After Contempt Judgment 1/ Date of document checked in 04 - 11	TYPE OF CLOSING: Check One CHECK IF COMPLAINT HAD ISSUED IN CASE <input type="checkbox"/> Enter opposite type of agreement date of approval: <input type="checkbox"/> 1 - All Party Written <input type="checkbox"/> 2 - Unilateral Written <input type="checkbox"/> 4 - Non-Board <u>12/02/09</u> <input type="checkbox"/> 5 - Compliance <input type="checkbox"/> 6 - Part Compliance <input type="checkbox"/> 7 - Non-Compliance WAS ENFORCEMENT RECOMMENDED? YES <input type="checkbox"/> Date _____ NO <input type="checkbox"/> WAS CONTEMPT RECOMMEND? 1/ YES <input type="checkbox"/> Date _____ NO <input type="checkbox"/> IF RECOMMENDED, CIVIL <input type="checkbox"/> CRIMINAL <input type="checkbox"/>

A. REMEDIES INVOLVING REINSTATEMENT, BACKPAY, REIMBURSEMENT (Insert pertinent information below)

1. EMPLOYER REINSTATEMENT Note: Total of items B thru E should equal item A. A. NO. TO BE REINSTATED <u>1</u> B. NO. REINSTATED <u>-0-</u> C. NO. WAIVING REINSTATEMENT BEFORE OFFER <u>-0-</u> (Insert "Reason" under Remarks) D. NO. DECLINING REINSTATEMENT AFTER OFFER _____ (Insert "Reason" under Remarks) E. NO. PLACED ON PREFERENTIAL LIST _____	2. UNION RESTORATION OF EMPLOYMENT RIGHTS 8(b)(2) (Where not shown in column 1) A. NO RESTORED TO HIRING HALL RIGHTS <u>N/A</u> B. NO. UNION WITHDREW OBJECTIONS TO EMPLOYMENT _____ C. NO. RECEIVING EMPLOYMENT _____	3. BACKPAY A. NO. TO BE MADE WHOLE <u>1</u> B. NO. RECEIVING <u>1</u> C. AMOUNT OF BACKPAY: (1) TOTAL AMOUNT DUE <u>2/ \$22,000</u> (2) AMOUNT PAID BY COMPANY <u>3/ \$22,000</u> (3) AMOUNT PAID BY UNION <u>3/</u>	4. FEES, DUES, FINES, REFUNDED A. NO. RECEIVING <u>N/A</u> B. TOTAL AMOUNT DUE <u>2/</u> C. AMOUNT PAID BY COMPANY <u>3/</u> D. AMOUNT PAID BY UNION <u>3</u>
--	---	--	---

1/ Submit second copy of this report to Contempt Litigation Branch.

2/ As computed by board agent. (Borderline willful loss issues should not be resolved against claimants.) However, where backpay hearing has been held use amount as determined at latest stage and in "Remarks" or attachment set forth the amount claimed in backpay specification and number for whom claimed.

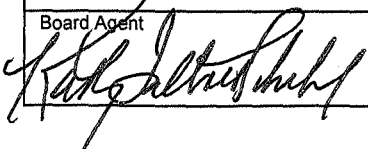
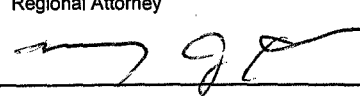
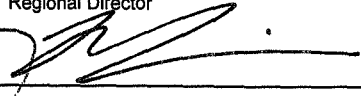
3/ In formal action cases, if amount paid is less than amount on "Total Amount Due" line, explain fully below in Remarks" or on attachment; where amount is to be paid in installments, explain arrangements.

B. OTHER REMEDIES CALLING FOR AFFIRMATIVE ACTION

Check Applicable Provisions		Check or Insert Action Taken	
<input type="checkbox"/> 01 - POST NOTICE (copy attached)	DATE UNION POSTED -	DATE COMPANY POSTED -	
<input type="checkbox"/> 02 - WITHDRAW ASSISTANCE FROM UNION	LETTER OR NOTICE WITHDRAWING ASSISTANCE <input type="checkbox"/>		
<input type="checkbox"/> 04 - DISESTABLISH UNION	LETTER OR NOTICE DISESTABLISHING <input type="checkbox"/>		
<input type="checkbox"/> 08 - END PICKETING	DATED ENDED-	NO. OF EMPLOYEES RETURNING TO WORK	
<input type="checkbox"/> 32 - END WORK STOPPAGE	DATED ENDED-	NO. OF EMPLOYEES RETURNING TO WORK	
STATUS OF BARGAINING WHEN CASE CLOSED: <input type="checkbox"/> 1 - IN PROGRESS <input type="checkbox"/> 2 - INITIAL CONTRACT SIGNED <input type="checkbox"/> 3 - SUCCEEDING CONTRACT SIGNED <input type="checkbox"/> 4 - ABANDONED BECAUSE: PLANT CLOSED, MOVED OR SOLD <input type="checkbox"/> 5 - UNION NO LONGER INTERESTED <input checked="" type="checkbox"/> 9 - OTHER (explain)			

OTHER REMEDIES (include affirmative actions required by cease and desist order, and remarks)

Subsequent to issuance of complaint parties entered into non-board settlement agreement including letters of reference for both parties, back pay, and changes to ER's employee handbook removing prohibitions on discussing terms and conditions of employment with co-workers.

CONTROL CODE FOR BACKPAY	INSTALLMENT PAYMENTS? <input type="checkbox"/> YES <input type="checkbox"/> NO	COURT COSTS AWARDED? <input type="checkbox"/> YES <input type="checkbox"/> NO	AMOUNT AWARDED \$	AMOUNT COLLECTED \$	CHECK FORWARDED TO FINANCE BRANCH DATE:
HAS RESPONDENT (s) COMPLIED WITH NON-AFFIRMATIVE PROVISIONS? <input type="checkbox"/> YES <input type="checkbox"/> NO		CHARGING PARTY'S POSITION ON COMPLIANCE No objections.			
SIGNATURE OF					
Board Agent 	Regional Attorney 	Regional Director 	DATE OF THIS REPORT 12-3-09		

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 14

COTTON BABIES, INC.

and

Cases 14-CA-29789
and 14-CA-29790

(b) (6), (b) (7)(C) an Individual

and

(b) (6), (b) (7)(C) an Individual

**ORDER CONDITIONALLY APPROVING WITHDRAWAL REQUEST
AND DISMISSING ORDER CONSOLIDATING CASES, COMPLAINT AND
NOTICE OF HEARING**

On September 9, 2009, the undersigned issued a Order Consolidating Cases, Complaint and Notice of Hearing in the above-titled matter.

On December 1 and December 2, 2009, respectively, the Charging Parties requested withdrawal of the charges upon which the complaint was based. The undersigned having duly considered the request,

IT IS ORDERED that the withdrawal requests are approved conditionally based upon a representation that a private settlement has been reached between the parties. Therefore, this approval is conditioned upon the performance of the undertakings in the private settlement between the parties. Upon application by the Charging Parties, supported by evidence that those undertakings have not been complied with, the charges are subject to reinstatement for further processing.

IT IS FURTHER ORDERED that the Order Consolidating Cases, Complaint and Notice of Hearing is dismissed.

December 4, 2009



Ralph R. Tremain, Regional Director
National Labor Relations Board
Region 14
1222 Spruce Street, Room 8.302
St. Louis, Missouri 63103-2829

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 14

COTTON BABIES, INC.

and

(b) (6), (b) (7)(C), an Individual

and

(b) (6), (b) (7)(C), an Individual

Case 14-CA-29789

Case 14-CA-29790

DATE OF
MAILING

November 1, 2021

AFFIDAVIT OF SERVICE OF

**ORDER CONDITIONALLY APPROVING WITHDRAWAL REQUEST AND
DISMISSING ORDER CONSOLIDATING CASES, COMPLAINT AND NOTICE
OF HEARING**

I, the undersigned employee of the National Labor Relations Board, being duly sworn, depose and say that on the date indicated above I served the above-entitled document(s) by post-paid regular mail upon the following persons, addressed to them at the following addresses:

(b) (6), (b) (7)(C)

Cotton Babies, Inc.
6116 Baumgartner Crossing
St. Louis, MO 63129
(Respondent)

Mr. Bryan P. Cavanaugh, Attorney
Sandberg Phoenix & von Gontrad P.C.
One City Centre, 15th Floor
515 North Sixth Street
St. Louis, MO 63101-1880
(Respondent's Attorney)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

Harold L. Young, Jr.

Subscribed and sworn to before me on

December 7, 2009

NATIONAL LABOR RELATIONS BOARD

DESIGNATED AGENT

Litigation Participant Notification

Case Name: Cotton Babies, Inc.

Case No.: 14-CA-29789
14-CA-29790

Counsel for the General Counsel:	Kathy J. Talbott-Schehl
Phone No.:	(314)539-7771
E-Mail:	Kathy.Talbott-Schehl@nlrb.gov
Respondent:	Cotton Babies, Inc.
Respondent's Attorney:	Mr. Bryan P. Cavanaugh
Attorney's Phone:	(314)446-4221
Attorney's Fax:	(314)241-7604
Attorney's E-Mail:	bcavanaugh@sandbergphoenix.com
Charging Party #1:	(b) (6), (b) (7)(C)
Charging Party #2:	(b) (6), (b) (7)(C)
Charging Party's Attorney:	NONE LISTED
Attorney's Phone:	
Attorney's Fax:	
Attorney's E-Mail:	

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER

DO NOT WRITE IN THIS SPACE

Case	Date Filed
34-CA-12576	Jan. 19, 2010

Instructions:
File an original and 4 copies of this charge with the NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

a. Name of Employer American Medical Response		b. Number if workers employed Apprx. 300	
c. Address (street, city, state, ZIP code) 58 Middletown Ave, New Haven, CT 06513	d. Employer Representative Chuck Babson	e. Telephone No. 203-781-1000	Fax No. 203-785-1334
f. Type of Establishment (factory, mine, wholesaler, etc.) EMT / Paramedics		g. Identify principal product or service	
h. The above named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8 (a). Subsections (1) and (list subsections) (5) of the National Labor Relations Act, and these unfair labor practices are unfair practice affecting commerce within the meaning of the Act.			

2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)

The company did not allow (b) (6), (b) (7)(C) Weingarten Rights/Representation by the Union as requested, when was threatened with disciplinary action, which has resulted in termination.

By the above and other acts, the above named employer has interfered with, restrained, and coerced employees in the exercise of the rights guaranteed in Section 7 of the Act.

3. Full name of the party filing charge (if labor organization, give full name, including local name and number)

International Brotherhood of Teamsters Local 443

4a. Address (street and number, city, state, and ZIP code) 200 Wallace Street New Haven, CT 06511	4b. Telephone No. (203) 624-5185	Fax No. (203) 624-0145
---	--	----------------------------------

5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization)

International Brotherhood of Teamsters

6. DECLARATION

I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.

By [Signature]
(signature of representative or person making charge)

President / Business Representative
(title if any)

Address 200 Wallace Street, New Haven, CT 06511

203-624-5185
(Telephone No.)

January 14, 2010
(date)

NLRB, REG 34

JOB #214

	DATE	TIME	TO/FROM	MODE	MIN/SEC	PGS	STATUS
001	1/19	15:25	812037851334	EC--S	00' 39"	004	OK
002		15:26	812147122777	EC--S	00' 38"	004	OK

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 34

AMERICAN MEDICAL RESPONSE

and

**INTERNATIONAL BROTHERHOOD OF
TEAMSTERS, LOCAL 443**Case **34-CA-12576**DATE OF MAILING January 19, 2010**AFFIDAVIT OF SERVICE OF a copy of DOCKET LETTER AND CHARGE FILED**

I, the undersigned employee of the National Labor Relations Board, being duly sworn, depose and say that on the date indicated above I served the above-entitled document(s) by facsimile transmission and regular mail upon the following persons, addressed to them at the following addresses:

Mr. Chuck Babson
American Medical Response
58 Middletown Avenue
New Haven, CT 06513

Scott Rowekamp, Labor & Employment Counsel
American Medical Response
Legal Department
1717 Main Street, Suite 5200
Dallas, TX 75201

Subscribed and sworn to before me this 19th day

of January, 2009

DESIGNATED AGENT Terri L. Gupton



NATIONAL LABOR RELATIONS BOARD

INTERNET
FORM NLRB - 501
(2-08)

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
AMENDED CHARGE AGAINST EMPLOYER

DO NOT WRITE IN THIS SPACE

Case
34-CA-12576

Date Filed
4/29/10

Instructions:

File an original and 4 copies of this charge with the NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

a. Name of Employer American Medical Response of Connecticut Inc.		b. Tel. No. (203) 781-1000
		c. Cell No.
		f. Fax No. (203) 785-1334
d. Address (street, city, state, ZIP code) 58 Middletown Ave, New Haven, CT 06513	e. Employer Representative Chuck Babson	g. E-Mail
		h. Number of Workers Employed Apprx - 300
i. Type of Establishment (factory, mine, wholesaler, etc.) EMT / Paramedics	j. Identify principal product or service	
k. The above named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8 (a), subsections (1) and (list subsections) 3 of the National Labor Relations Act, and these unfair labor practices are unfair practice affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.		

2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)

On about (b) (6), (b) (7)(C) 2009, the above named Employer, by its officers, agents, and representatives, suspended its employee (b) (6), (b) (7)(C), and on (b) (6), (b) (7)(C) 2009, terminated (b) (6), (b) (7)(C), because (b) (6) exercised (b) (6) Weingarten rights to Union representation on about (b) (6), (b) (7)(C) 2009 and engaged in concerted protected activities, and because (b) (6) supposedly violated certain work rules which are overbroad and thereby in violation of the National Labor Relations Act, as amended, as these rules tend to restrict employees in the exercise of their Section 7 rights under the Act.

Within the past six months, and at all material times, the Employer has maintained and enforced the following work rules:

The "Blogging and Internet Posting Policy" that prohibits employees from making disparaging comments when discussing the company or superiors or coworkers,

The "Standards of Conduct" rules prohibiting language or action that is of a "generally offensive nature" and prohibiting "rude or discourteous behavior to a coworker"; and

A "no solicitation" policy that limits solicitation of others to "approved announcements".

3. Full name of the party filing charge (if labor organization, give full name, including local name and number)

International Brotherhood of Teamsters Local 443

4a. Address (street and number, city, state, and ZIP code)

200 Wallace Street New Haven, CT 06511

4b. Tel. No.
(203) 624-5185
4c. Cell No.
4d. Fax No.
(203) 624-0145
4e. E-Mail
Tlocal443@MSN.com

5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization)

International Brotherhood of Teamsters

6. DECLARATION

I declare I have read the above charge and that the statements are true to the best of my knowledge and belief.

By Daniel J. Flanagan DANIEL J. FLANAGAN
(Signature of Representative or person making charge) (Print name and title or office, if any)

Address 200 Wallace St. New Haven Ct. 06511 4-28-10
(date)

Tel. No.
(203) 624-5185
Office, if any, Cell No.
Fax No.
(203) 624-0145
E-Mail
Tlocal443@MSN.com

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

PRIVACY STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 34**

American Medical Response of Connecticut, Inc.

and

International Brotherhood of Teamsters, Local 443

Case No. 34-CA-12576

DATE OF MAILING April 30, 2010

AFFIDAVIT OF SERVICE OF copy of DOCKET LETTER AND AMENDED CHARGE

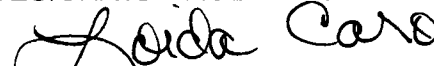
I, the undersigned employee of the National Labor Relations Board, being duly sworn, depose and say that on the date indicated above I served the above-entitled document(s) by facsimile transmission and regular mail upon the following persons, addressed to them at the following addresses:

Mr. Chuck Babson
American Medical Response
58 Middletown Avenue
New Haven, CT 06513

Scott Rowekamp
Labor & Employment Counsel
American Medical Response
Legal Department
1717 Main Street, Suite 5200
Dallas, TX 75201

Subscribed and sworn to before me
This 30th day of April, 2010

DESIGNATED AGENT Loida Caro



NATIONAL LABOR RELATIONS BOARD

MODE = MEMORY TRANSMISSION

START=APR-30 15:31

END=APR-30 15:35

FILE NO.= 242

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**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 34**

American Medical Response of Connecticut, Inc.

and

International Brotherhood of Teamsters, Local 443

Case No. 34-CA-12576

DATE OF MAILING April 30, 2010

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Legal Department
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Dallas, TX 75201

Subscribed and sworn to before me
This 30th day of April, 2010

DESIGNATED AGENT Loida Caro

Loida Caro

NATIONAL LABOR RELATIONS BOARD

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 34**

AMERICAN MEDICAL RESPONSE OF
CONNECTICUT, INC.

and

INTERNATIONAL BROTHERHOOD OF
TEAMSTERS, LOCAL 443

Case No. 34-CA-12576

COMPLAINT AND NOTICE OF HEARING

International Brotherhood of Teamsters, Local 443, herein called the Union, has charged that American Medical Response of Connecticut, Inc., herein called Respondent, has been engaging in unfair labor practices as set forth in the National Labor Relations Act, 29 U.S.C. Sec. 151, et seq., herein called the Act. The Acting General Counsel, by the undersigned, pursuant to 10(b) of the Act and Section 102.15 of the Board's Rules and Regulations, issues this Complaint and Notice of Hearing and alleges as follows:

1(a) The charge in this proceeding was filed by the Union on January 19, 2010, and a copy was served by facsimile transmission and regular mail on Respondent on January 19, 2010.

(b) The amended charge in this proceeding was filed by the Union on April 29, 2010, and a copy was served by facsimile transmission and regular mail on Respondent on April 30, 2010.

2. At all material times, Respondent has provided emergency medical services at various facilities in the State of Connecticut, including a facility located in New Haven, Connecticut, herein called its facility.


3. During the 12-month period ending September 30, 2010, Respondent, in conducting its operations described above in paragraph 2, purchased and received at its facility goods valued in excess of \$50,000 directly from points located outside the State of Connecticut.

4. At all material times, Respondent has been an employer engaged in commerce within the meaning of Section 2(2), (6) and (7) of the Act.

5. At all material times, the Union has been a labor organization within the meaning of Section 2(5) of the Act.

6. At all material times, the following individuals held the positions set forth opposite their respective names and have been supervisors of Respondent within the meaning of Section 2(11) of the Act, and agents of Respondent within the meaning of Section 2(13) of the Act:

(b) (6), (b) (7)(C)



7. At all material times, Respondent has maintained the following rules in its Employee Handbook:

(a) Blogging and Internet Posting Policy

- Employees are prohibited from posting pictures of themselves in any media, including but not limited to the Internet, which depicts the Company in any way, including but not limited to a Company uniform, corporate logo or an ambulance, unless the employee receives written approval from the EMSC Vice President of Corporate Communications in advance of the posting;
- Employees are prohibited from making disparaging, discriminatory or defamatory comments when discussing the Company or the employee's superiors, co-workers and/or competitors.

(b) Standards of Conduct [prohibiting the following conduct]:

- Rude or discourteous behavior to a client or coworker.
- Use of language or action that is inappropriate in the workplace whether racial, sexual or of a general offensive nature.

(c) Solicitation and Distribution Policy

- It is the policy of the Company to prohibit solicitation and distribution by non-employees on Company premises and

through Company mail and e-mail systems, and to permit solicitation and distribution by employees only as outlined below.

- Solicitation of others regarding the sale of material goods, contests, donations, etc., is to be limited to approved announcements posted on designated break room bulletin boards.

8. On or about (b) (6), (b) (7)(C) 2009, Respondent's employee (b) (6), (b) (7)(C) requested Union representation for an investigatory interview (the preparation of a written incident report) that (b) (6), (b) (7)(C) had reasonable cause to believe would result in disciplinary action against (b) (6), (b) (7)(C).

9. Respondent required (b) (6), (b) (7)(C) to complete the incident report described above in paragraph 8 even though Respondent had denied (b) (6), (b) (7)(C) request for Union representation.

10. On or about (b) (6), (b) (7)(C) 2009, Respondent, by (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) threatened (b) (6), (b) (7)(C) with discipline because of (b) (6), (b) (7)(C) request for Union representation described above in paragraph 8.

11. On or about November 8, 2009, (b) (6), (b) (7)(C) engaged in concerted activities with other employees by criticizing Respondent's supervisor (b) (6), (b) (7)(C) on (b) (6), (b) (7)(C) Facebook page.

12. On or about (b) (6), (b) (7)(C) 2009, Respondent terminated (b) (6), (b) (7)(C).

13. Respondent engaged in the conduct described above in paragraph 12 because of (b) (6), (b) (7)(C) activities described above in paragraph 11, and to discourage employees from engaging in these or other concerted activities.

14. Respondent engaged in the conduct described above in paragraph 12 because (b) (6), (b) (7)(C) activities described above in paragraph 11 violated the rules described above in paragraphs 7(a) and (b).

15. Respondent engaged in the conduct described above in paragraph 12 because (b) (6), (b) (7)(C) assisted the Union, and to discourage employees from engaging in such activities.

16. By the conduct described above in paragraphs 7, 9, 10, 12, 13 and 14, Respondent has been interfering with, restraining and coercing employees in the

exercise of the rights guaranteed in Section 7 of the Act in violation of Section 8(a)(1) of the Act.

17. By the conduct described above in paragraphs 12 and 15, Respondent has been discriminating in regard to the hire or tenure or terms and conditions of employment of its employees, thereby discouraging membership in a labor organization in violation of Section 8(a)(1) and (3) of the Act.

18. The unfair labor practices of Respondent described above affect commerce within the meaning of the Section 2(6) and (7) of the Act.

WHEREFORE, as part of the remedy for the unfair labor practices alleged above, the Acting General Counsel seeks an Order requiring that the Respondent pay interest on any back pay or other monetary awards on a compounded, quarterly basis. The General Counsel further seeks all other relief as may be just and proper to remedy the unfair labor practices alleged.

ANSWER REQUIREMENT

Respondent is notified that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, it must file an answer to the complaint. The answer must be **received by this office on or before November 10, 2010 or postmarked on or before November 9, 2010**. Respondent should file an original and four copies of the answer with this office and serve a copy of the answer on each of the other parties.

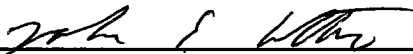
An answer may also be filed electronically by using the E-Filing system on the Agency's website. In order to file an answer electronically, access the Agency's website at <http://www.nlr.gov>, click on **E-Gov**, then click on the **E-Filing** link on the pull-down menu. Click on the "File Documents" button under "Regional, Subregional and Resident Offices" and then follow the directions. The responsibility for the receipt and usability of the answer rests exclusively upon the sender. A failure to timely file the answer will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off-line or unavailable for some other reason. When an answer is filed electronically, an original and four paper copies must be sent to this office so that it is received no later than three (3) business days after the date of electronic filing. Service of the answer on each of the other parties must still be accomplished by means allowed under the Board's Rules and Regulations. The answer may not be filed by

facsimile transmission. If no answer is filed, the Board may find, pursuant to a Motion for Default Judgment, that the allegations in the complaint are true.

NOTICE OF HEARING

PLEASE TAKE NOTICE THAT on **January 25, 2011**, at the A.A. Ribicoff Federal Building, 450 Main Street, Suite 410, Hartford, Connecticut, and on consecutive days thereafter until concluded, a hearing will be conducted before an administrative law judge of the National Labor Relations Board. At the hearing, Respondent and any other party to this proceeding have the right to appear and present testimony regarding the allegations in this complaint. The procedures to be followed at the hearing are described in the attached Form NLRB-4668. The procedure to request a postponement of the hearing is described in the attached Form NLRB-4338.

Dated at Hartford, Connecticut, this 27th day of October, 2010.



John S. Cotter, Acting Regional Director
National Labor Relations Board
Region 34

Attachments

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 34

AMERICAN MEDICAL RESPONSE
OF CONNECTICUT, INC.

and
INTERNATIONAL BROTHERHOOD OF
TEAMSTERS, LOCAL 443

§
§ Case Nos. 34-CA-12576
§
§
§
§
§
§

ANSWER TO COMPLAINT

Respondent, American Medical Response of Connecticut, Inc. ("Respondent"), hereby submits its Answer to the Complaint in the above-captioned matter, as follows:

1. Respondent admits the International Brotherhood of Teamsters, Local 443 ("Union") purportedly filed the original charge and amended charge as alleged in paragraphs 1(a)-(b).

2. Respondent admits the allegations contained in paragraphs 2.

3. Respondent admits the allegations contained in paragraph 3.

4. Respondent admits the allegations contained in paragraph 4.

5. Respondent admits the allegations contained in paragraph 5.

6. With respect to the allegations contained in paragraph 6, Respondent denies the allegation that at all material times (b) (6), (b) (7)(C) has been a supervisor of Respondent within the meaning of Section 2(11) of the Act. Respondent admits the remaining allegations contained in paragraph 6.

7. Respondent admits the allegations contained in paragraph 7.

8. Respondent denies the allegations contained in paragraph 8.

9. Respondent denies the allegations contained in paragraph 9.

10. Respondent denies the allegations contained in paragraph 10.

11. Respondent denies the allegations contained in paragraph 11.
12. Respondent admits the allegations contained in paragraph 12.
13. Respondent denies the allegations contained in paragraph 13.
14. Respondent denies the allegations contained in paragraph 14.
15. Respondent denies the allegations contained in paragraph 15.
16. Respondent denies the allegations contained in paragraph 16.
17. Respondent denies the allegations contained in paragraph 17.
18. Respondent denies the allegations contained in paragraph 18.

Any allegation in the Complaint not specifically admitted herein is denied. American Medical Response of Connecticut, Inc. denies that the Union is entitled to the relief enumerated in the Complaint or to any relief whatsoever.

AFFIRMATIVE DEFENSES

First Affirmative Defense

The Complaint fails to state a claim upon which relief can be granted.

Second Affirmative Defense

At all material times, American Medical Response of Connecticut, Inc. acted and bargained in good faith with the Union.

Third Affirmative Defense

American Medical Response of Connecticut, Inc.'s actions with respect to the subject matter in each of the alleged unfair labor practices contained herein were undertaken in good faith and for good cause, with the absence of malicious intent.

Fourth Affirmative Defense

The Union and (b) (6), (b) (7)(C) are estopped, by reason of their conduct, actions and omissions, from asserting each and any of the alleged unfair labor practices contained herein.

Fifth Affirmative Defense

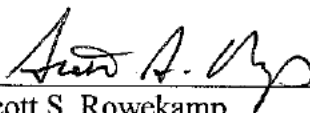
The Union and (b) (6), (b) (7)(C) waived the right, by reason of their conduct, actions and omissions, to assert the alleged unfair labor practices contained herein.

Sixth Affirmative Defense

With respect to any actions taken by American Medical Response of Connecticut, Inc. that are challenged, those claims are barred, in whole or in part, because all actions taken by American Medical Response of Connecticut, Inc. were untaken in good faith and solely for legitimate, nondiscriminatory reasons.

Respondent requests that the Complaint be dismissed in its entirety, with prejudice.

Respectfully submitted,



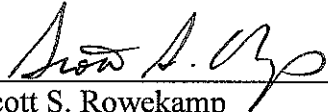
Scott S. Rowekamp
Attorney for Respondent

1717 Main Street, Suite 5200
Dallas, Texas 75201
(214) 712-2082
(214) 712-2777 (fax)

Certificate of Mailing

This is to certify that the undersigned caused a copy of the foregoing Answer to Complaint to be placed in the United States mail, postage prepaid, and addressed as follows:

Daniel J. Flanagan
Pres./Business Representative
Teamsters Local 443
200 Wallace Street
New Haven, CT 06507



Scott S. Rowekamp

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
SETTLEMENT AGREEMENT

IN THE MATTER OF

American Medical Response of Connecticut, Inc.
Case No. 34-CA-12576

The undersigned Charged Party and the undersigned Charging Party, in settlement of the above matter, and subject to the approval of the Regional Director for the National Labor Relations Board, HEREBY AGREE AS FOLLOWS:

POSTING OF NOTICE — Upon approval of this Agreement and receipt of the Notices from the Region, which may include Notices in more than one language as deemed appropriate by the Regional Director, the Charged Party will post immediately in conspicuous places in and about its facility, including all places where notices to employees/members are customarily posted, and maintain for 60 consecutive days from the date of posting, copies of the attached Notice (and versions in other languages as deemed appropriate by the Regional Director) made a part hereof, said Notices to be signed by a responsible official of the Charged Party and the date of actual posting to be shown thereon. In addition to physical posting of paper notices, notices shall be distributed electronically, such as by email, posting on an intranet or an internet site, and/or other electronic means, if the Charged Party customarily communicates with its employees by such means. Reasonable steps shall be taken by the Charged Party to ensure that the notices are not altered, defaced, or covered by any other material.

COMPLIANCE WITH NOTICE — The Charged Party will comply with all the terms and provisions of said Notice.

SCOPE OF THE AGREEMENT — This Agreement settles only the allegations in the above-captioned case(s), and does not constitute a settlement of any other case(s) or matters. It does not preclude persons from filing charges, the General Counsel from prosecuting complaints, or the Board and the courts from finding violations with respect to matters which precede the date of the approval of this Agreement regardless of whether such matters are known to the General Counsel or are readily discoverable. The General Counsel reserves the right to use the evidence obtained in the investigation and prosecution of the above-captioned case(s) for any relevant purpose in the litigation of this or any other case(s), and a judge, the Board and the courts may make findings of fact and/or conclusions of law with respect to said evidence.

REFUSAL TO ISSUE COMPLAINT — In the event the Charging Party fails or refuses to become a party to this Agreement, and if in the Regional Director's discretion it will effectuate the policies of the National Labor Relations Act, the Regional Director shall decline to issue a Complaint herein (*or a new Complaint if one has been withdrawn pursuant to the terms of this Agreement*), and this Agreement shall be between the Charged Party and the undersigned Regional Director. A review of such action may be obtained pursuant to Section 102.19 of the Rules and Regulations of the Board if a request for same is filed within 14 days thereof. This Agreement shall be null and void if the General Counsel does not sustain the Regional Director's action in the event of a review. Approval of this Agreement by the Regional Director shall constitute withdrawal of any Complaint(s) and Notice of Hearing heretofore issued in the above captioned case(s), as well as any answer(s) filed in response.

PERFORMANCE — Performance by the Charged Party with the terms and provisions of this Agreement shall commence immediately after the Agreement is approved by the Regional Director, or if the Charging Party does not enter into this Agreement, performance shall commence immediately upon receipt by the Charged Party of notice that no review has been requested or that the General Counsel has sustained the Regional Director.

NOTIFICATION OF COMPLIANCE — The undersigned parties to this Agreement will each notify the Regional Director in writing what steps the Charged Party has taken to comply herewith. Such notification shall be given within 5 days, and again after 60 days, from the date of the approval of this Agreement. In the event the Charging Party does not enter into this Agreement, initial notice shall be given within 5 days after notification from the Regional Director that no review has been requested or that the General Counsel has sustained the Regional Director. Contingent upon compliance with the terms and provisions hereof, no further action shall be taken in the above captioned case(s).

By entering into this Settlement Agreement, the Charged Party does not admit that it violated the National Labor Relations Act.

Charged Party American Medical Response of Connecticut, Inc.		Charging Party International Brotherhood of Teamsters, Local 443	
By:	Date	By:	Date
/s/ John Barr, Attorney Name and Title	2/4/11	/s/ Daniel J. Flanagan, Pres., Business Rep. Name and Title	1/25/11
Recommended By:	Date	Approved By:	Date
/s/ Thomas E. Quigley Board Agent	2/7/11	/s/ Jonathan B. Kreisberg Regional Director	2/7/11

NOTICE TO



POSTED PURSUANT TO APPROVED BY A RE NATIONAL LABOR RELATIONS BOARD

FEDERAL LAW GIVES YOU THE RIGHT TO:

- Form, join, or assist a union
- Bargain collectively through a representative chosen by employees
- Act together with other employees for your benefit and protection
- Choose not to engage in any of these protected activities

WE WILL NOT do anything that interferes with these rights. More specifically,

WE WILL NOT maintain or enforce any rules in our employee handbook, or elsewhere, that improperly restrict your right to engage in union activities or to discuss your wages, hours and working conditions with your fellow employees and others while not at work.

WE WILL NOT maintain or enforce any rules in our employee handbook, or elsewhere, that improperly restrict your right to engage in union activities or to discuss your wages, hours and working conditions with your fellow employees anywhere on Company property during working hours.

WE WILL NOT deny your request for union representation for an investigatory interview or require you to participate in an investigatory interview without union representation, including the preparation of an incident report, where you reasonably believe that the incident report may result in disciplinary action against you.

WE WILL NOT threaten to discipline you because you request union representation for an investigatory interview, including the preparation of an incident report, where you reasonably believe that the incident report may result in disciplinary action against you.

WE WILL NOT discharge or discipline you because of your union activities, or because you discuss your wages, hours and working conditions with your fellow employees and others while not at work.

WE WILL NOT in any similar way interfere with your rights under Federal Law described above.

The National Labor Relations Board is an independent Federal agency created in 1935 to help employees get union representation and it investigates and remedies unfair labor practices. If you file a charge or election petition, you may speak confidentially to any agent with the Board's Regional Office.

THIS IS AN OFFICIAL NOTICE

THIS NOTICE MUST REMAIN POSTED FOR 60 CONSECUTIVE DAYS FROM THE DATE OF POSTING AND THIS NOTICE OR COMPLIANCE WITH ITS PROVISIONS MAY BE DIRECTED TO THE ABOVE REGIONAL OFFICE.

EMPLOYEES

SETTLEMENT AGREEMENT

IAL DIRECTOR OF THE

ENCY OF THE UNITED STATES GOVERNMENT



WE WILL revise the following rules that appear in our employee handbook, and advise you in writing of such revision:

“Blogging and Internet Posting Policy”, which improperly restricts your right to engage in union activities or to discuss your wages, hours and working conditions with your fellow employees and others;

“Standards of Conduct” rules, which improperly restrict your right to engage in union activities or to discuss your wages, hours and working conditions with your fellow employees and others; and

“Solicitation and Distribution Policy”, which improperly restricts your right to engage in union activities or to discuss your wages, hours and working conditions with your fellow employees anywhere on company property during working hours.

WE WILL remove from our records any documents that you signed requiring you to abide by the above-described rules, and notify you in writing that this has been done and that such documents will not be used against you in any way in the future.

AMERICAN MEDICAL RESPONSE OF CONNECTICUT, INC.
(Employer)

DATED: _____ BY: _____
(Representative) (Title)

force the National Labor Relations Act. It conducts secret-ballot elections to determine whether
by employers and unions. To find out more about your rights under the Act and how to file a
Office set forth below. You may also obtain information from the Board's website: www.nlrb.gov.

AND MUST NOT BE DEFACED BY ANYONE.

T NOT BE ALTERED, DEFACED, OR COVERED BY ANY OTHER MATERIAL. ANY QUESTIONS CONCERNING
F'S COMPLIANCE OFFICER.

450 Main Street, Suite 410
Hartford, CT 06103
(860) 240-3006

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 34**

AMERICAN MEDICAL RESPONSE OF
CONNECTICUT, INC.

and


INTERNATIONAL BROTHERHOOD OF
TEAMSTERS, LOCAL 443

Case 34-CA-12576

ORDER RESCHEDULING HEARING

IT IS HEREBY ORDERED that the hearing in the above-entitled matter is rescheduled from January 25, 2011 to February 8, 2011, at 10:00 a.m., at the A.A. Ribicoff Federal Building, 450 Main Street, Suite 410, Hartford, Connecticut.

Dated at Hartford, Connecticut this 25th day of January, 2011.


Jonathan B. Kreisberg
Regional Director
National Labor Relations Board
Region 34
Hartford, Connecticut

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 34

AMERICAN MEDICAL RESPONSE OF
CONNECTICUT, INC.

and

INTERNATIONAL BROTHERHOOD OF
TEAMSTERS, LOCAL 443

Case 34-CA-12576

DATE OF MAILING January 25, 2011

AFFIDAVIT OF SERVICE OF copies of ORDER RESCHEDULING HEARING

I, the undersigned employee of the National Labor Relations Board, being duly sworn, depose and say that on the date indicated above I served the above-entitled document(s) by facsimile transmission upon the following persons, addressed to them at the following addresses:

Mr. Chuck Babson
American Medical Response
58 Middletown Avenue
New Haven, CT 06513

Scott Rowekamp
Labor & Employment Counsel
American Medical Response
Legal Department
1717 Main Street, Suite 5200
Dallas, TX 75201

Thomas R. Gibbons, Jr., Esquire
Jackson Lewis LLP
90 State House Square, 8th Floor
Hartford, CT 06103-3708

Daniel J. Flanagan
Pres./Business Representative
Teamsters Local 443
200 Wallace Street
New Haven, CT 06507

Subscribed and sworn to before me this 25th day

of January, 2011

DESIGNATED AGENT Loida Caro



NATIONAL LABOR RELATIONS BOARD

MODE = MEMORY TRANSMISSION

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FILE NO.= 138

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***** -REGION 34

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34- *****

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 34**

**AMERICAN MEDICAL RESPONSE OF
CONNECTICUT, INC.**

and

**INTERNATIONAL BROTHERHOOD OF
TEAMSTERS, LOCAL 443**

Case 34-CA-12576

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Jackson Lewis LLP
90 State House Square, 8th Floor
Hartford, CT 06103-3708

Daniel J. Flanagan
Pres./Business Representative
Teamsters Local 443
200 Wallace Street
New Haven, CT 06507

Subscribed and sworn to before me this 25th day

of January, 2011

DESIGNATED AGENT Loida Caro

Loida Caro

NATIONAL LABOR RELATIONS BOARD

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 34**

AMERICAN MEDICAL RESPONSE OF
CONNECTICUT, INC.

and

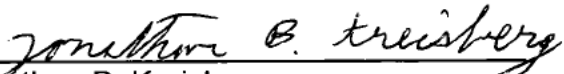
INTERNATIONAL BROTHERHOOD OF
TEAMSTERS, LOCAL 443

Case 34-CA-12576

**ORDER CONDITIONALLY APPROVING PARTIAL
WITHDRAWAL OF CHARGE AND COMPLAINT**

A Complaint and Notice of Hearing issued in the above case on October 27, 2010. Teamsters, Local 443 has requested withdrawal of the Section 8(a)(1) and (3) allegations of the above charge concerning (b) (6), (b) (7)(C), as a result of a non-Board settlement with Respondent. Accordingly, conditioned upon Respondent's full compliance with the terms of the non-Board settlement, the withdrawal of the portion of the charge concerning the termination of (b) (6), (b) (7)(C) is conditionally approved, and the Complaint and Notice of Hearing are conditionally withdrawn.

Dated at Hartford, Connecticut this 7th day of February, 2011.


Jonathan B. Kreisberg
Regional Director
National Labor Relations Board
Region 34
Hartford, Connecticut

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 34**

AMERICAN MEDICAL RESPONSE OF
CONNECTICUT, INC.

and

INTERNATIONAL BROTHERHOOD OF
TEAMSTERS, LOCAL 443

Case 34-CA-12576

DATE OF MAILING February 7, 2011

**AFFIDAVIT OF SERVICE OF copies of ORDER CONDITIONALLY APPROVING PARTIAL
WITHDRAWAL OF CHARGE AND COMPLAINT**

I, the undersigned employee of the National Labor Relations Board, being duly sworn, depose and say that on the date indicated above I served the above-entitled document(s) regular mail upon the following persons, addressed to them at the following addresses:

Mr. Chuck Babson
American Medical Response
58 Middletown Avenue
New Haven, CT 06513

Scott Rowekamp
Labor & Employment Counsel
American Medical Response
Legal Department
1717 Main Street, Suite 5200
Dallas, TX 75201

John Barr, Esq.
Jackson Lewis LLP
321 W. Franklin Street
Richmond, VA 23220

Thomas R. Gibbons, Jr., Esquire
Jackson Lewis LLP
90 State House Square, 8th Floor
Hartford, CT 06103-3708

Daniel J. Flanagan
Pres./Business Representative
Teamsters Local 443
200 Wallace Street
New Haven, CT 06507

Subscribed and sworn to before me this 7th day

of February, 2011

DESIGNATED AGENT Loida Caro



NATIONAL LABOR RELATIONS BOARD

Case Service Sheet**As of 1/19/2010****Case Number:** 34-CA-12576-001**Case Name:** American Medical Response

<u>Charged Party #1 Party:</u> American Medical Response 58 Middletown Avenue New Haven, CT 06513 E-Mail:	<u>Point of Contact:</u> Mr. Chuck Babson Phone: (203)781-1000 Fax: (203)785-1334 Cell:
<u>Charged Party #1 Legal Representative #1:</u> American Medical Response Legal Department 1717 Main Street, Suite 5200 Dallas, TX 75201 E-Mail: Scott.Rowekamp@emsc.net	<u>Point of Contact:</u> Scott Rowekamp, Labor & Employment Counsel Phone: (214)712-2082 Fax: (214)712-2777 Cell:
<u>Charging Party #1 Party:</u> Teamsters Local 443 200 Wallace Street New Haven, CT 06507 E-Mail:	<u>Point of Contact:</u> Daniel J. Flanagan, Pres./Business Representative Phone: (203)624-5185 Fax: (203)624-0145 Cell:

NOTICE TO EMPLOYEES



POSTED PURSUANT TO A SETTLEMENT AGREEMENT
APPROVED BY A REGIONAL DIRECTOR OF THE
NATIONAL LABOR RELATIONS BOARD AN AGENCY OF THE UNITED STATES GOVERNMENT



FEDERAL LAW GIVES YOU THE RIGHT TO:

- Form, join, or assist a union
- Bargain collectively through a representative chosen by employees
- Act together with other employees for your benefit and protection
- Choose not to engage in any of these protected activities

WE WILL NOT do anything that interferes with these rights. More specifically,

WE WILL NOT maintain or enforce any rules in our employee handbook, or elsewhere, that improperly restrict your right to engage in union activities or to discuss your wages, hours and working conditions with your fellow employees and others while not at work.

WE WILL NOT maintain or enforce any rules in our employee handbook, or elsewhere, that improperly restrict your right to engage in union activities or to discuss your wages, hours and working conditions with your fellow employees anywhere on Company property during working hours.

WE WILL NOT deny your request for union representation for an investigatory interview or require you to participate in an investigatory interview without union representation, including the preparation of an incident report, where you reasonably believe that the incident report may result in disciplinary action against you.

WE WILL NOT threaten to discipline you because you request union representation for an investigatory interview, including the preparation of an incident report, where you reasonably believe that the incident report may result in disciplinary action against you.

WE WILL NOT discharge or discipline you because of your union activities, or because you discuss your wages, hours and working conditions with your fellow employees and others while not at work.

WE WILL NOT in any similar way interfere with your rights under Federal Law described above

WE WILL revise the following rules that appear in our employee handbook, and advise you in writing of such revision:

"Blogging and Internet Posting Policy", which improperly restricts your right to engage in union activities or to discuss your wages, hours and working conditions with your fellow employees and others;

"Standards of Conduct" rules, which improperly restrict your right to engage in union activities or to discuss your wages, hours and working conditions with your fellow employees and others, and

"Solicitation and Distribution Policy", which improperly restricts your right to engage in union activities or to discuss your wages, hours and working conditions with your fellow employees anywhere on company property during working hours.

WE WILL remove from our records any documents that you signed requiring you to abide by the above-described rules, and notify you in writing that this has been done and that such documents will not be used against you in any way in the future

AMERICAN MEDICAL RESPONSE OF CONNECTICUT, INC.
(Employer)

DATED: 4/8/11 BY: (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

The National Labor Relations Board is an independent Federal agency created in 1935 to enforce the National Labor Relations Act. It conducts secret-ballot elections to determine whether employees want union representation and it investigates and remedies unfair labor practices by employers and unions. To find out more about your rights under the Act and how to file a charge or election petition, you may speak confidentially to any agent with the Board's Regional Office set forth below. You may also obtain information from the Board's website: www.nlrb.gov.

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE.

THIS NOTICE MUST REMAIN POSTED FOR 60 CONSECUTIVE DAYS FROM THE DATE OF POSTING AND MUST NOT BE ALTERED, DEFACED, OR COVERED BY ANY OTHER MATERIAL. ANY QUESTIONS CONCERNING THIS NOTICE OR COMPLIANCE WITH ITS PROVISIONS MAY BE DIRECTED TO THE ABOVE REGIONAL OFFICE'S COMPLIANCE OFFICER

450 Main Street, Suite 410
Hartford, CT 06103
(860) 240-3006

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER

FORM EXEMPT UNDER 44 U.S.C. 3512

DO NOT WRITE IN THIS SPACE	
Case:	Date Filed:

22-CA-061632 July 25, 2011

INSTRUCTIONS:

File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BEING BROUGHT	
a. Name of Employer: The Ambriola, Co.	b. Tel. No. 973-228-2648
	c. Cell No.
	f. Fax No.
d. Address (Street, city, state, and ZIP code) 7 Patton Drive, West Caldwell, NJ, 07006	e. Employer Representative (b) (6), (b) (7)(C) last name unknown)
	g. e-Mail
	h. Number of workers employed 20+
i. Type of Establishment (factory, mine, wholesaler, etc): Importer	j. Identify principal product or service Cheese
k. The above named employer has engaged in and is engaging in unfair labor practices within the meaning of section 7, section 8(a), subsections (1), and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within meaning of the Act and the Postal Reorganization Act.	
2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices) I, (b) (6), (b) (7)(C) hereby bring this Charge against my former employer, The Ambriola Co. (hereinafter referred to as "Respondent"). I was contracted to work for Respondent through Express Personnel Agency in or around (b) (6), (b) (7)(C) 2009. I was later directly hired by Respondent in or around (b) (6), (b) (7)(C) as (b) (6), (b) (7)(C). In or around mid-March 2011 I received a raise. I later commented to my coworker that I had received a raise. On or around (b) (6), (b) (7)(C) 2011 I was told by (b) (6), (b) (7)(C) last name unknown) that I was being terminated because I had discussed my raise in the workplace. I therefore allege that I was terminated because I engaged in a protected concerted activity by discussing my wages with my coworkers.	
3. Full name of party filing charge (if labor organization, give full name, including local name and number) (b) (6), (b) (7)(C)	
4a. Address (Street and number, city, state and ZIP code) (b) (6), (b) (7)(C)	4b. Cell No. (b) (6), (b) (7)(C)
	4d. Fax No.
	4c. E-Mail (b) (6), (b) (7)(C)
5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when Charge is filed by a labor organization)	
6. DECLARATION	
I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.	
By (b) (6), (b) (7)(C)	Tel. No. (b) (6), (b) (7)(C)
(b) (6), (b) (7)(C) (Print/type name and title or office if any)	Office, if any Cell.
Address: (b) (6), (b) (7)(C)	Fax No.
Date	(b) (6), (b) (7)(C)

WILLFULL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

PRIVACY ACT STATEMENT

Solidification of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151, et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the LR is voluntary, however, failure to supply the information will cause the NLRB to decline to invoke its processes.



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 22
20 WASHINGTON PL
FL 5
NEWARK, NJ 07102-3115

Agency Website: www.nlrb.gov
Telephone: (973)645-2100
Fax: (973)645-3852

July 26, 2011

(b) (6), (b) (7)(C)

Re: The Ambriola, Co.
Case 22-CA-061632

Dear (b) (6), (b) (7)(C):

The charge that you filed in this case on July 26, 2011²⁰⁷: July 26, 2011 has been docketed as case number 22-CA-061632. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge will be investigated by BERT DICE-GOLDBERG whose telephone number is (973) 645-3536. If the Board agent is not available, you may contact RICHARD FOX whose telephone number is (973) 645-2259.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing *Form NLRB-4701, Notice of Appearance*. This form is available on our Website, www.nlrb.gov, or at the Regional office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Presentation of Your Evidence: As the party who filed the charge in this case, it is your responsibility to meet with the Board agent to provide a sworn affidavit, or provide other witnesses to provide sworn affidavits, and to provide relevant documents within your possession. Because we seek to resolve labor disputes promptly, you should be ready to promptly present your affidavit(s) and other evidence. If you have not yet scheduled a date and time for the Board agent to take your affidavit, please contact the Board agent to schedule the affidavit(s). If you fail to cooperate in promptly presenting your evidence, your charge may be dismissed without investigation.

Procedures: We strongly urge everyone to submit all documents and other materials (except unfair labor practice charges and representation petitions) by E-Filing (not e-mailing) through our Website: www.nlr.gov. However, the Agency will continue to accept timely filed paper documents. Please include the case name and number indicated above on all your correspondence regarding the charge.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our Website, www.nlr.gov or from the Regional Office upon your request. *NLRB Form 4541, Investigative Procedures* offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

J. MICHAEL LIGHTNER
Regional Director



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 22
20 WASHINGTON PL
FL 5
NEWARK, NJ 07102-3115

Agency Website: www.nlrb.gov
Telephone: (973)645-2100
Fax: (973)645-3852

July 26, 2011

THE AMBRIOLA, CO.
7 PATTON DR
WEST CALDWELL, NJ 07006-6404

Re: The Ambriola, Co.
Case 22-CA-061632

Enclosed is a copy of a charge that has been filed in this case. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by BERT DICE-GOLDBERG whose telephone number is (973) 645-3536. If BERT DICE-GOLDBERG is not available, you may contact RICHARD FOX whose telephone number is (973) 645-2259.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing Form NLRB-4701, Notice of Appearance. This form is available on our website, www.nlrb.gov, or from an NLRB office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Presentation of Your Evidence: We seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit a complete written account of the facts and a statement of your position with respect to the allegations set forth in the charge as soon as possible. If the Board agent later asks for more evidence, I strongly urge you or your representative to cooperate fully by promptly presenting all evidence relevant to the investigation. In this way, the case can be fully investigated more quickly.

Full and complete cooperation includes providing witnesses to give sworn affidavits to a Board agent, and providing all relevant documentary evidence requested by the Board agent. Sending us your written account of the facts and a statement of your position is not enough to be considered full and complete cooperation. A refusal to fully cooperate during the investigation might cause a case to be litigated unnecessarily.

In addition, either you or your representative must complete the enclosed Commerce Questionnaire to enable us to determine whether the NLRB has jurisdiction over this dispute. If you recently submitted this information in another case, or if you need assistance completing the form, please contact the Board agent.

We will not honor any request to place limitations on our use of position statements or evidence beyond those prescribed by the Freedom of Information Act and the Federal Records Act. Thus, we will not honor any claim of confidentiality except as provided by Exemption 4 of FOIA, 5 U.S.C. Sec. 552(b)(4), and any material you submit may be introduced as evidence at any hearing before an administrative law judge. We are also required by the Federal Records Act to keep copies of documents gathered in our investigation for some years after a case closes. Further, the Freedom of Information Act may require that we disclose such records in closed cases upon request, unless there is an applicable exemption. Examples of those exemptions are those that protect confidential financial information or personal privacy interests.

Procedures: We strongly urge everyone to submit all documents and other materials (except unfair labor practice charges and representation petitions) by E-Filing (not e-mailing) through our website, www.nlr.gov. However, the Agency will continue to accept timely filed paper documents. Please include the case name and number indicated above on all your correspondence regarding the charge.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website, www.nlr.gov or from an NLRB office upon your request. NLRB Form 4541 offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

J. MICHAEL LIGHTNER
Regional Director

Enclosures:

1. Copy of Charge
2. Commerce Questionnaire

(9-07)

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
FIRST AMENDED CHARGE AGAINST EMPLOYER

DO NOT WRITE IN THIS SPACE

Case
22-CA-061632

Date Filed
10/4/2011

INSTRUCTIONS:

File an original together with four copies and a copy for each additional charged party named in item 1 with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

a. Name of Employer The Ambriola Co.		b. Number of workers employed 20+
c. Address (street, city, state, ZIP code) 7 Patton Drive West Caldwell, N.J., 07006	d. Employer Representative (b) (6), (b) (7)(C)	e. Telephone No. 973-228-2648 Fax No.
f. Type of Establishment (factory, mine, wholesaler, etc.) Importer	g. Identify principal product or service Cheese	
h. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (list subsections) 8(a)(1) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.		

2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)

I, (b) (6), (b) (7)(C) hereby bring this Charge against my former employer, The Ambriola Co. (hereinafter referred to as "Respondent").

I was contracted to work for Respondent through Express PERSONNEL Agency in or around (b) (6), (b) (7)(C) 2009. I was later directly hired by Respondent in or around (b) (6), (b) (7)(C) as (b) (6), (b) (7)(C). In or around mid-March 2011 I receive a raise. I later commented to my coworker that I had received a raise. On or around (b) (6), (b) (7)(C) 2011 I was told by (b) (6), (b) (7)(C) who I know as (b) (6), (b) (7)(C) (last name unknown) that I was being terminated because I had discussed my raise in the workplace.

I therefore allege that I was terminated because I engaged in concerted protected activity by discussing my wages with my coworkers.

On or about March, 2011, the Employer promulgated a rule prohibiting discussions among employees about their salaries by announcing that if anyone was found to have discussed their raise with their coworkers they would be terminated

3. Full name of party filing charge (if labor organization, give full name, including local name and number)

(b) (6), (b) (7)(C)

4a. Address (street and number, city, state, and ZIP code)

(b) (6), (b) (7)(C)

4b. Telephone No.

(b) (6), (b) (7)(C)

Fax No.

5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization)

6. DECLARATION

(b) (6), (b) (7)(C) I read the above charge and that the statements are true to the best of my knowledge and belief.

By (b) (6), (b) (7)(C) (person making charge)

(b) (6), (b) (7)(C) (Print name and title, office, if any)

(b) (6), (b) (7)(C) (fax) (b) (6), (b) (7)(C) (date) 10-4-11

Address (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) (b) (6), (b) (7)(C)

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigations. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary, however, failure to supply the information will cause the NLRB to decline to invoke its processes.



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
REGION 22
20 WASHINGTON PL
FL 5
NEWARK, NJ 07102-3127

Agency Website: www.nlrb.gov
Telephone: (973)645-2100
Fax: (973)645-3852

October 5, 2011

THE AMBRIOLA, CO.
7 PATTON DR
WEST CALDWELL, NJ 07006-6404

Re: The Ambriola, Co.
Case 22-CA-061632

Dear Sir or Madam:

Enclosed is a copy of the first amended charge that has been filed in this case.

Investigator: This charge is being investigated by BERT DICE-GOLDBERG whose telephone number is (973) 645-3536. If the agent is not available, you may contact RICHARD FOX whose telephone number is (973) 645-2259.

Presentation of Your Evidence: As you know, we seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit a complete written account of the facts and a statement of your position with respect to the allegations in the first amended charge as soon as possible. If the Board agent later asks for more evidence, I strongly urge you or your representative to cooperate fully by promptly presenting all evidence relevant to the investigation. In this way, the case can be fully investigated more quickly.

Procedures: Your right to representation, the means of presenting evidence, and a description of our procedures, including how to submit documents, was described in the letter sent to you with the original charge in this matter. If you have any questions, please contact the Board agent.

Very truly yours,

J. MICHAEL LIGHTNER
Regional Director

Enclosure: Copy of first amended charge



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
REGION 22
20 WASHINGTON PL
FL 5
NEWARK, NJ 07102-3127

Agency Website: www.nlrb.gov
Telephone: (973)645-2100
Fax: (973)645-3852

October 5, 2011

(b) (6), (b) (7)(C)

Re: The Ambriola, Co.
Case 22-CA-061632

Dear (b) (6), (b) (7)(C):

We have docketed the first amended charge that you filed in this case.

Investigator: This charge is being investigated by BERT DICE-GOLDBERG whose telephone number is (973) 645-3536. If the agent is not available, you may contact RICHARD FOX whose telephone number is (973)645-2259.

Presentation of Your Evidence: As the party who filed the charge in this case, it is your responsibility to meet with the Board agent to provide a sworn affidavit, or provide other witnesses to provide sworn affidavits, and to provide relevant documents within your possession. If you have additional evidence regarding the allegations in the first amended charge and you have not yet scheduled a date and time for the Board agent to obtain that evidence, please contact the Board agent to arrange to present that evidence. If you fail to cooperate in promptly presenting your evidence, your charge may be dismissed.

Procedures: Your right to representation, the means of presenting evidence, and a description of our procedures, including how to submit documents, was described in the letter sent to you with the original charge in this matter. If you have any questions, please contact the Board agent.

Very truly yours,

J. MICHAEL LIGHTNER
Regional Director

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 22**

THE AMBRIOLA COMPANY

and

Case 22-CA-061632

(b) (6), (b) (7)(C)

An Individual

COMPLAINT AND NOTICE OF HEARING

(b) (6), (b) (7)(C), herein called Charging Party, has charged that The Ambriola Company, herein called Respondent, has been engaging in unfair labor practices as set forth in the National Labor Relations Act, 29 U.S.C. § 151 et seq., herein called the Act. Based thereon the Acting General Counsel, by the undersigned, pursuant to Section 10(b) of the Act and Section 102.15 of the Rules and Regulations of the National Labor Relations Board, herein called the Board, issues this Complaint and Notice of Hearing and alleges as follows:

1. (a) The charge in this proceeding was filed by the Charging Party on July 25, 2011 and a copy was served on Respondent on July 26, 2011.

(b) The first amended charge in this proceeding was filed on October 4, 2011 and a copy was served on Respondent on October 5, 2011.

2. At all material times, Respondent, a corporation, with an office and place of business located in West Caldwell, New Jersey, herein called Respondent's West Caldwell facility, has been engaged in the processing and distribution of imported cheese products.

3. During the preceding twelve months, Respondent, in conducting its operations described above in paragraph 3 purchased and received at its West Caldwell facility goods and supplies valued in excess of \$50,000 directly from points outside the state of New Jersey.

4. At all material times, Respondent has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

5. At all material times (b) (6), (b) (7)(C) has held the position of (b) (6), (b) (7)(C) and has been a supervisor of Respondent within the meaning of Section 2(11) of the Act and an agent of Respondent within the meaning of Section 2(13) of the Act.

6. About March 2011, Respondent, by (b) (6), (b) (7)(C), at a meeting with Respondent's employees, orally promulgated and has since maintained a rule prohibiting its employees from discussing among themselves the amount of their individual wage increases under penalty of discharge.

7. About (b) (6), (b) (7)(C) 2011 Respondent, by (b) (6), (b) (7)(C), discharged its employee (b) (6), (b) (7)(C).

8. Respondent engaged in the conduct described above in paragraph 7 because the named employee violated the rule described above in paragraph 6, and to discourage employees from engaging in these or other concerted activities.

9. By the conduct described above in paragraphs 6, 7 and 8, Respondent has been interfering with, restraining and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act in violation of Section 8(a)(1) of the Act.

10. The unfair labor practices of Respondent described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

NOTICE OF HEARING

PLEASE TAKE NOTICE THAT on the 11th day of January 2012 at 9:30 a.m. at 20 Washington Place, Newark, New Jersey and on consecutive days thereafter until concluded, a hearing will be conducted before an administrative law judge of the National Labor Relations Board. At the hearing, Respondent and any other party to this proceeding have the right to appear and present testimony regarding the allegations in this complaint. The procedures to be followed at the hearing are described in the attached Form NLRB-4668. The procedure to request a postponement of the hearing is described in the attached Form NLRB-4338.

ANSWER REQUIREMENT

Respondent is notified that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, it must file an answer to the complaint. The answer must be **received by this office on or before November 14, 2011 or postmarked on or before November 13, 2011.** Unless filed electronically in a pdf format, Respondent should file an original and four copies of the answer with this office.

An answer may also be filed electronically through the Agency's website. *To file electronically, go to www.nlr.gov, click on **File Case Documents**, enter the NLRB Case Number, and follow the detailed instructions.* The responsibility for the receipt and usability of the answer rests exclusively upon the sender. Unless notification on the Agency's website informs users that the Agency's E-Filing system is officially determined to be in technical failure because it is unable to receive documents for a continuous period of more than 2 hours after 12:00 noon (Eastern Time) on the due date for filing, a failure to timely file the answer will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off-line or unavailable for some other reason. The Board's Rules and Regulations require that an answer be signed by counsel or non-attorney representative for represented parties or by the party if not represented. See Section 102.21. If the answer being filed electronically is a pdf document containing the required signature, no paper copies of the answer need to be transmitted to the Regional Office. However, if the electronic version of an answer to a complaint is not a pdf file containing the required signature, then the E-filing rules require that such answer containing the required signature continue to be submitted to the Regional Office by traditional means within three (3) business days after the date of electronic filing.

Service of the answer on each of the other parties must still be accomplished by means allowed under the Board's Rules and Regulations. The answer may not be filed by

facsimile transmission. If no answer is filed, or if an answer is filed untimely, the Board may find, pursuant to a Motion for Default Judgment, that the allegations in the complaint are true.

Dated at Newark, New Jersey, this 31st day of October, 2011.

J. Michael Lightner
Regional Director
National Labor Relations Board
Region 22
20 Washington Place, 5th Floor
Newark, New Jersey 07102

Attachments

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 22**

THE AMBRIOLA COMPANY

and

Case 22-CA-061632

(b) (6), (b) (7)(C) AN INDIVIDUAL

ORDER RESCHEDULING HEARING

IT IS HEREBY ORDERED that the hearing in the above-entitled matter
be, and the same hereby is rescheduled from the 11th day of January, 2012 to the 25th day of
January, 2012 at 9:30 a.m., 20 Washington Place, 5th Floor, Newark, New Jersey 07102

Dated: December 29, 2011

MARIA E. BALZANO
ACTING REGIONAL DIRECTOR
NATIONAL LABOR RELATIONS BOARD
REGION 22
20 WASHINGTON PL
5TH FLOOR
NEWARK, NJ 07102-3127

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 22**

THE AMBRIOLA COMPANY

and

Case 22-CA-061632

(b) (6), (b) (7)(C) AN INDIVIDUAL

ORDER DISMISSING COMPLAINT AND NOTICE OF HEARING

IT IS HEREBY ORDERED that the hearing in the above-entitled matter
be, and the same hereby is rescheduled from the 11th day of January, 2012 to the 25th day of
January, 2012 at 9:30 a.m., 20 Washington Place, 5th Floor, Newark, New Jersey 07102

Dated: December 29, 2011

J. MICHAEL LIGHTNER
REGIONAL DIRECTOR
NATIONAL LABOR RELATIONS BOARD
REGION 22
20 WASHINGTON PL
5TH FLOOR
NEWARK, NJ 07102-3127

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
SETTLEMENT AGREEMENT

IN THE MATTER OF

The Ambriola, Co.

Case 22-CA-061632

Subject to the approval of the Regional Director for the National Labor Relations Board, the Charged Party and the Charging Party **HEREBY AGREE TO SETTLE THE ABOVE MATTER AS FOLLOWS:**

POSTING OF NOTICES — After the Regional Director has approved this Agreement, the Regional Office will send copies of the approved Notices to the Charged Party in English and in additional languages if the Regional Director decides that it is appropriate to do so. A responsible official of the Charged Party will then sign and date those Notices and immediately post them in prominent places around its facility, including all places where the Charged Party normally posts notices to employees. The Charged Party will keep all Notices posted for 60 consecutive days after the initial posting.

COMPLIANCE WITH NOTICE — The Charged Party will comply with all the terms and provisions of said Notice.

BACKPAY — Within 14 days from approval of this agreement, the Charged Party will make whole the employee(s) named below by payment to each of them of the amount opposite each name. The Charged Party will make appropriate withholdings for each named employee.

(b) (6), (b) (7)(C)	\$25013.20
---------------------	------------

SCOPE OF THE AGREEMENT — This Agreement settles only the allegations in the above-captioned case(s), and does not settle any other case(s) or matters. It does not prevent persons from filing charges, the General Counsel from prosecuting complaints, or the Board and the courts from finding violations with respect to matters that happened before this Agreement was approved regardless of whether General Counsel knew of those matters or could have easily found them out. The General Counsel reserves the right to use the evidence obtained in the investigation and prosecution of the above-captioned case(s) for any relevant purpose in the litigation of this or any other case(s), and a judge, the Board and the courts may make findings of fact and/or conclusions of law with respect to that evidence. By approving this Agreement the Regional Director withdraws any Complaint(s) and Notice(s) of Hearing previously issued in the above case(s), and the Charged Party withdraws any answer(s) filed in response.

PARTIES TO THE AGREEMENT — If the Charging Party fails or refuses to become a party to this Agreement and the Regional Director determines that it will promote the policies of the National Labor Relations Act, the Regional Director may approve the settlement agreement and decline to issue or reissue a Complaint in this matter. If that occurs, this Agreement shall be between the Charged Party and the undersigned Regional Director. In that case, a Charging Party may request review of the decision to approve the Agreement. If the General Counsel does not sustain the Regional Director's approval, this Agreement shall be null and void.

AUTHORIZATION TO PROVIDE COMPLIANCE INFORMATION AND NOTICES DIRECTLY TO CHARGED PARTY — Counsel for the Charged Party authorizes the Regional Office to forward the cover letter describing the general expectations and instructions to achieve compliance, a conformed settlement, original notices and a certification of posting directly to the Charged Party. If such authorization is granted, Counsel will be simultaneously served with a courtesy copy of these documents.

Yes _____	No /s/ _____
Initials	Initials

PERFORMANCE — Performance by the Charged Party with the terms and provisions of this Agreement shall commence immediately after the Agreement is approved by the Regional Director, or if the Charging Party does not enter into this Agreement, performance shall commence immediately upon receipt by the Charged Party of notice that no review has been requested or that the General Counsel has sustained the Regional Director.

The Charged Party agrees that in case of non-compliance with any of the terms of this Settlement Agreement by the Charged Party, and after 14 days notice from the Regional Director of the National Labor Relations Board of such non-compliance without remedy by the Charged Party, the Regional Director will reissue the complaint previously issued on [date] in the instant case(s). Thereafter, the General Counsel may file a motion for default judgment with the Board on the allegations of the complaint. The Charged Party understands and agrees that the allegations of the aforementioned complaint will be deemed admitted and its Answer to such complaint will be considered withdrawn. The only issue that may be raised before the Board is whether the Charged Party defaulted on the terms of this Settlement Agreement. The Board may then, without necessity of trial or any other proceeding, find all allegations of the complaint to be true and make findings of fact and conclusions of law consistent with those allegations adverse to the Charged Party on all issues raised by the pleadings. The Board may then issue an order providing a full remedy for the violations found as is appropriate to remedy such violations. The parties further agree that a U.S. Court of Appeals Judgment may be entered enforcing the Board order ex parte, after service or attempted service upon Charged Party/Respondent at the last address provided to the General Counsel.

NOTIFICATION OF COMPLIANCE — Each party to this Agreement will notify the Regional Director in writing what steps the Charged Party has taken to comply with the Agreement. This notification shall be given within 5 days, and again after 60 days, from the date of the approval of this Agreement. If the Charging Party does not enter into this Agreement, initial notice shall be given within 5 days after notification from the Regional Director that the Charging Party did not request review or that the General Counsel sustained the Regional Director's approval of this agreement. No further action shall be taken in the above captioned case(s) provided that the Charged Party complies with the terms and conditions of this Settlement Agreement and Notice.

Charged Party THE AMBRIOLA, CO.		Charging Party (b) (6), (b) (7)(C)	
By: Name and Title	Date	By: Name and Title	Date
/s/ (b) (6), (b) (7)(C)	1/11/12	/s/ (b) (6), (b) (7)(C)	1/11/12
Recommended By:	Date	Approved By:	Date
/s/ Bert Dice-Goldberg Bert Dice-Goldberg, Board Attorney	1/11/12	/s/ J. Michael Lightner Regional Director, Region 22	1/13/12

(To be printed and posted on official Board notice form)

FEDERAL LAW GIVES YOU THE RIGHT TO:

- Form, join, or assist a union;
- Choose a representative to bargain with us on your behalf;
- Act together with other employees for your benefit and protection;
- Choose not to engage in any of these protected activities.

WE WILL NOT do anything to prevent you from exercising the above rights.

YOU HAVE THE RIGHT to discuss wages and wage increases with other employees and **WE WILL NOT** do anything to interfere with your exercise of that right.

WE WILL NOT fire employees because they exercise their right to discuss wages and wages increases with other employees.

WE WILL pay (b) (6), (b) (7)(C) for the wages and other benefits (b) (6) lost because we fired (b) (6), (b) (7)(C).

(b) (6), (b) (7)(C) had the right to be reinstated to (b) (6), (b) (7)(C) position of employment along with (b) (6), (b) (7)(C) seniority and all other rights or privileges and waived that right.

WE WILL NOT in any like or related manner interfere with your rights under Section 7 of the Act.

THE AMBRIOLA, CO.

(Employer)

Dated: _____
(Representative)

By: _____
(Title)

The National Labor Relations Board is an independent Federal agency created in 1935 to enforce the National Labor Relations Act. We conduct secret-ballot elections to determine whether employees want union representation and we investigate and remedy unfair labor practices by employers and unions. To find out more about your rights under the Act and how to file a charge or election petition, you may speak confidentially to any agent with the Board's

Regional Office set forth below or you may call the Board's toll-free number 1-866-667-NLRB (1-866-667-6572). Hearing impaired persons may contact the Agency's TTY service at 1-866-315-NLRB. You may also obtain information from the Board's website: www.nlr.gov.

20 WASHINGTON PL
FL 5
NEWARK, NJ 07102-3127

Telephone: (973) 645-2100
Hours of Operation: 8:30 a.m. to 5 p.m.



United States Government
NATIONAL LABOR RELATIONS BOARD
Region 22
20 Washington Place, 5th Floor
Newark, NJ 07102-3115
Telephone: 973-645-2100

April 24, 2012

MICHAEL A. SHADIACK, ESQ.
CONNELL FOLEY LLP
85 LIVINGSTON AVENUE
ROSELAND, NJ 07068-3702

Re: The Ambriola, Co.
Case 22-CA-061632

Dear Mr. Shadiack:

After a review of all aspects of compliance in the above-captioned case, it has been determined that the Employer has met its obligations with regard to all terms and provisions of the Settlement Agreement in this matter.

Accordingly, this matter is hereby closed and will remain closed, conditioned upon continued compliance. In the event that subsequent violations of the National Labor Relations Act occur, this matter may be reopened.


Very truly yours,

J. Michael Lightner

J. Michael Lightner
Regional Director

cc: JUSTIN L. SWIDLER
SWARTZ AND SWIDLER, LLC
1878 MARLTON PIKE EAST
CHERRY HILL, NJ 08003

(b) (6), (b) (7)(C)

A large black rectangular redaction box covers the bottom portion of the document, obscuring any text that might have been present.

INTERNET
FORM NLRB-501
(2-08)UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER

FORM EXEMPT UNDER 44 U.S.C. 3512

DO NOT WRITE IN THIS SPACE

Case	Date Filed
25-CA-093878	11/29/12

INSTRUCTIONS:

File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

a. Name of Employer Kindred Transitional Care and Rehabilitation		b. Tel No 765-282-0053
		c. Cell No (b) (6), (b) (7)(C)
		f. Fax No
d. Address (Street, city, state, and ZIP code) 4301 N. Walnut Street Muncie, IN 47303	e. Employer Representative Dee Harrold- Administrator	g. e-Mail
		h. Number of workers employed 50
i. Type of Establishment (factory, mine, wholesaler, etc) health services	j. Identify principal product or service rehabilitation care <u>Nursing Home</u>	
k. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (list subsections) 8(a)(1) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act		

2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)

On (b) (6), (b) (7)(C) 2012, the above-named Employer discharged its employee (b) (6), (b) (7)(C) because (b) (6), (b) (7)(C) would not sign a social media policy that is in violation of employees' Section 7 rights under the National Labor Relations Act.

3. Full name of entity filing charge (if labor organization, give full name, including local name and number)

(b) (6), (b) (7)(C)

4a. Address (Street and number, city, state, and ZIP code)

(b) (6), (b) (7)(C)

4b. Tel. No

4c. Cell No

4d. Fax No

4e. e-Mail

5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization)

6. DECLARATION

I declare that I have read the above charges and that the statements are true to the best of my knowledge and belief.

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C) An Individual

(name and title or office, if any)

Tel. No. (b) (6), (b) (7)(C)

Office, if any, Cell No.

Fax No

e-Mail

Address

(b) (6), (b) (7)(C)

X 9/29/12
(date)

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.

Inquiry ID (b) (6), (b) (7)(C)



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 25
575 N PENNSYLVANIA ST
STE 238
INDIANAPOLIS, IN 46204-1563

Agency Website: www.nlrb.gov
Telephone: (317)226-7381
Fax: (317)226-5103

November 29, 2012

DEE HARROLD, ADMINISTRATOR
KINDRED TRANSITIONAL CARE AND REHABILITATION
4301 N WALNUT ST
MUNCIE, IN 47303-1190

Re: KINDRED TRANSITIONAL CARE AND
REHABILITATION
Case 25-CA-093878

Dear Ms. HARROLD:

Enclosed is a copy of a charge that has been filed in this case. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Field Attorney CARIDAD AUSTIN whose telephone number is (317)226-5295. If this Board agent is not available, you may contact Supervisory Field Examiner COLLEEN MAPLES whose telephone number is (317)226-5541.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing Form NLRB-4701, Notice of Appearance. This form is available on our website, www.nlrb.gov, or from an NLRB office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Presentation of Your Evidence: We seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit a complete written account of the facts and a statement of your position with respect to the allegations set forth in the charge as soon as possible. If the Board agent later asks for more evidence, I strongly urge you or your representative to cooperate fully by promptly presenting all evidence relevant to the investigation. In this way, the case can be fully investigated more quickly.

Full and complete cooperation includes providing witnesses to give sworn affidavits to a Board agent, and providing all relevant documentary evidence requested by the Board agent.

November 29, 2012

Sending us your written account of the facts and a statement of your position is not enough to be considered full and complete cooperation. A refusal to fully cooperate during the investigation might cause a case to be litigated unnecessarily.

In addition, either you or your representative must complete the enclosed Commerce Questionnaire to enable us to determine whether the NLRB has jurisdiction over this dispute. If you recently submitted this information in another case, or if you need assistance completing the form, please contact the Board agent.

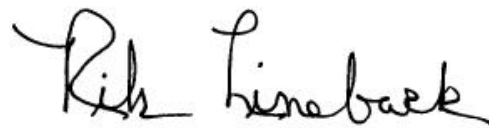
We will not honor any request to place limitations on our use of position statements or evidence beyond those prescribed by the Freedom of Information Act and the Federal Records Act. Thus, we will not honor any claim of confidentiality except as provided by Exemption 4 of FOIA, 5 U.S.C. Sec. 552(b)(4), and any material you submit may be introduced as evidence at any hearing before an administrative law judge. We are also required by the Federal Records Act to keep copies of documents gathered in our investigation for some years after a case closes. Further, the Freedom of Information Act may require that we disclose such records in closed cases upon request, unless there is an applicable exemption. Examples of those exemptions are those that protect confidential financial information or personal privacy interests.

Procedures: We strongly urge everyone to submit all documents and other materials (except unfair labor practice charges and representation petitions) by E-Filing (not e-mailing) through our website, www.nlr.gov. However, the Agency will continue to accept timely filed paper documents. Please include the case name and number indicated above on all your correspondence regarding the charge.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website, www.nlr.gov or from an NLRB office upon your request. NLRB Form 4541 offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

A handwritten signature in black ink that reads "Rik Lineback". The signature is written in a cursive, flowing style.

RIK LINEBACK
Regional Director

Enclosures:

1. Copy of Charge
2. Commerce Questionnaire

Revised 3/21/2011

NATIONAL LABOR RELATIONS BOARD

QUESTIONNAIRE ON COMMERCE INFORMATION

Please read carefully, answer all applicable items, and return to the NLRB Office. If additional space is required, please add a page and identify item number.

CASE NAME

KINDRED TRANSITIONAL CARE AND REHABILITATION

CASE NUMBER

25-CA-093878

1. EXACT LEGAL TITLE OF ENTITY (As filed with State and/or stated in legal documents forming entity)

2. TYPE OF ENTITY

☐ CORPORATION ☐ LLC ☐ LLP ☐ PARTNERSHIP ☐ SOLE PROPRIETORSHIP ☐ OTHER (Specify)

3. IF A CORPORATION or LLC

A. STATE OF INCORPORATION
OR FORMATION

B. NAME, ADDRESS, AND RELATIONSHIP (e.g. parent, subsidiary) OF ALL RELATED ENTITIES

4. IF AN LLC OR ANY TYPE OF PARTNERSHIP, FULL NAME AND ADDRESS OF ALL MEMBERS OR PARTNERS

5. IF A SOLE PROPRIETORSHIP, FULL NAME AND ADDRESS OF PROPRIETOR

6. BRIEFLY DESCRIBE THE NATURE OF YOUR OPERATIONS (Products handled or manufactured, or nature of services performed).

7. A. PRINCIPAL LOCATION:

B. BRANCH LOCATIONS:

8. NUMBER OF PEOPLE PRESENTLY EMPLOYED

A. Total:

B. At the address involved in this matter:

9. DURING THE MOST RECENT (Check appropriate box): ☐ CALENDAR YR ☐ 12 MONTHS or ☐ FISCAL YR (FY dates)

YES NO

A. Did you **provide services** valued in excess of \$50,000 directly to customers outside your State? If no, indicate actual value.
\$B. If you answered no to 9A, did you **provide services** valued in excess of \$50,000 to customers in your State who purchased goods valued in excess of \$50,000 from directly outside your State? If no, indicate the value of any such services you provided.
\$C. If you answered no to 9A and 9B, did you **provide services** valued in excess of \$50,000 to public utilities, transit systems, newspapers, health care institutions, broadcasting stations, commercial buildings, educational institutions, or retail concerns? If less than \$50,000, indicate amount. \$D. Did you **sell goods** valued in excess of \$50,000 directly to customers located outside your State? If less than \$50,000, indicate amount. \$E. If you answered no to 9D, did you **sell goods** valued in excess of \$50,000 directly to customers located inside your State who purchased other goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount.
\$F. Did you **purchase and receive goods** valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$G. Did you **purchase and receive goods** valued in excess of \$50,000 from enterprises who received the goods directly from points outside your State? If less than \$50,000, indicate amount. \$H. **Gross Revenues** from all sales or performance of services (Check the largest amount)
☐ \$100,000 ☐ \$250,000 ☐ \$500,000 ☐ \$1,000,000 or more If less than \$100,000, indicate amount.I. Did you **begin operations within the last 12 months?** If yes, specify date: _____

10 ARE YOU A MEMBER OF AN ASSOCIATION OR OTHER EMPLOYER GROUP THAT ENGAGES IN COLLECTIVE BARGAINING?

☐ YES ☐ NO (If yes, name and address of association or group).

11. REPRESENTATIVE BEST QUALIFIED TO GIVE FURTHER INFORMATION ABOUT YOUR OPERATIONS

NAME

TITLE

E-MAIL ADDRESS

TEL. NUMBER

12. AUTHORIZED REPRESENTATIVE COMPLETING THIS QUESTIONNAIRE

NAME AND TITLE (Type or Print)

SIGNATURE

E-MAIL ADDRESS

DATE

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and/or unfair labor practice proceedings and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary. However, failure to supply the information may cause the NLRB to refuse to process any further a representation or unfair labor practice case, or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

**KINDRED TRANSITIONAL CARE AND
REHABILITATION**

Charged Party

and

(b) (6), (b) (7)(C)

Charging Party

Case 25-CA-093878

AFFIDAVIT OF SERVICE OF CHARGE AGAINST EMPLOYER

I, the undersigned employee of the National Labor Relations Board, state under oath that on November 29, 2012, I served the above-entitled document(s) by post-paid regular mail upon the following persons, addressed to them at the following addresses:

DEE HARROLD, ADMINISTRATOR
KINDRED TRANSITIONAL CARE AND
REHABILITATION
4301 N WALNUT ST
MUNCIE, IN 47303-1190

November 29, 2012

Date

RENEE LAUX, Designated Agent of
NLRB

Name

/s/ Renee Laux

Signature



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 25
575 N PENNSYLVANIA ST
STE 238
INDIANAPOLIS, IN 46204-1563

Agency Website: www.nlrb.gov
Telephone: (317)226-7381
Fax: (317)226-5103

November 29, 2012

(b) (6), (b) (7)(C)

Re: KINDRED TRANSITIONAL CARE AND
REHABILITATION
Case 25-CA-093878

Dear (b) (6), (b) (7)(C):

The charge that you filed in this case on November 29, 2012 has been docketed as case number 25-CA-093878. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge will be investigated by Field Attorney CARIDAD AUSTIN whose telephone number is (317)226-5295. If the Board agent is not available, you may contact Supervisory Field Examiner COLLEEN MAPLES whose telephone number is (317)226-5541.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing *Form NLRB-4701, Notice of Appearance*. This form is available on our website, www.nlrb.gov, or at the Regional office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Presentation of Your Evidence: As the party who filed the charge in this case, it is your responsibility to meet with the Board agent to provide a sworn affidavit, or provide other witnesses to provide sworn affidavits, and to provide relevant documents within your possession. Because we seek to resolve labor disputes promptly, you should be ready to promptly present your affidavit(s) and other evidence. If you have not yet scheduled a date and time for the Board agent to take your affidavit, please contact the Board agent to schedule the affidavit(s). If you fail to cooperate in promptly presenting your evidence, your charge may be dismissed without investigation.

Procedures: We strongly urge everyone to submit all documents and other materials (except unfair labor practice charges and representation petitions) by E-Filing (not e-mailing)

through our website www.nlr.gov. However, the Agency will continue to accept timely filed paper documents. Please include the case name and number indicated above on all your correspondence regarding the charge.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website www.nlr.gov or from the Regional Office upon your request. *NLRB Form 4541, Investigative Procedures* offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Qualifying for Backpay: We are just beginning to investigate your charge and no decision has been made regarding the merits of your case. However, it is important that employees who might be entitled to backpay because of loss of employment understand their obligation to look for work in order to qualify for backpay if your case has merit. Accordingly, we urge you to promptly provide the Board agent with the names and addresses of all employees who might be entitled to backpay as a result of the charge you filed.

If backpay is due to an employee, the Board requires that the employee offset the backpay by promptly beginning to look for another job in the same or similar line of work. The Board has held that a reasonably diligent employee should begin searching for interim work within 2 weeks after the employee's termination or layoff or a refusal to hire the employee. If an employee cannot establish that he or she actively tried to mitigate his or her losses, the amount of money owed to the employee might be reduced.

Employees who might be owed backpay should keep careful records of when and where they have sought employment and of job search expenses such as mileage, parking, and copying resumes. Specifically, they should keep a record of each time they attempt to find work, including the date, name of the company, name of person with whom they spoke, the position sought, and the response received.

Very truly yours,

A handwritten signature in black ink that reads "Rik Lineback". The signature is written in a cursive, flowing style.

RIK LINEBACK
Regional Director

NATIONAL LABOR RELATIONS BOARD

NOTICE OF APPEARANCE

(b) (6), (b) (7)(C)

and

CASE 25-CA-093878

Kindred Transitional Care and Rehabilitation, Muncie

☒ REGIONAL DIRECTOR

☐ EXECUTIVE SECRETARY
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

☐ GENERAL COUNSEL
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

THE UNDERSIGNED HEREBY ENTERS APPEARANCE AS REPRESENTATIVE OF _____

Kindred Transitional Care and Rehabilitation, Muncie

IN THE ABOVE-CAPTIONED MATTER.

CHECK THE APPROPRIATE BOX(ES) BELOW:

☒ REPRESENTATIVE IS AN ATTORNEY

☒ IF REPRESENTATIVE IS AN ATTORNEY, IN ORDER TO ENSURE THAT THE PARTY MAY RECEIVE COPIES OF CERTAIN DOCUMENTS OR CORRESPONDENCE FROM THE AGENCY IN ADDITION TO THOSE DESCRIBED BELOW, THIS BOX MUST BE CHECKED. IF THIS BOX IS NOT CHECKED, THE PARTY WILL RECEIVE ONLY COPIES OF CERTAIN DOCUMENTS SUCH AS CHARGES, PETITIONS AND FORMAL DOCUMENTS AS DESCRIBED IN SEC. 11842.3 OF THE CASEHANDLING MANUAL.

(REPRESENTATIVE INFORMATION)

NAME: Stacey A. Zartler

MAILING ADDRESS: Kindred Healthcare, Inc., 1201 Marina Village Parkway, Suite 302,
Alameda, California 94501

E-MAIL ADDRESS: stacey.zartler@kindred.com

OFFICE TELEPHONE NUMBER: (415) 745-0940

CELL PHONE NUMBER: same FAX: (510) 337-9841

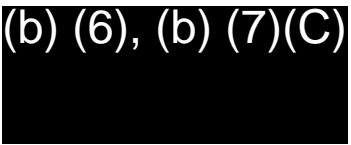
SIGNATURE:

Stacey A. Zartler
(Please sign in ink.)

DATE: 12/10/12

¹ IF CASE IS PENDING IN WASHINGTON AND NOTICE OF APPEARANCE IS SENT TO THE GENERAL COUNSEL OR THE EXECUTIVE SECRETARY, A COPY SHOULD BE SENT TO THE REGIONAL DIRECTOR OF THE REGION IN WHICH THE CASE WAS FILED SO THAT THOSE RECORDS WILL REFLECT THE APPEARANCE.

KINDRED TRANSITIONAL CARE AND - 3 -
REHABILITATION
Case 25-CA-093878

cc: (b) (6), (b) (7)(C)




UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 25
575 N PENNSYLVANIA ST
STE 238
INDIANAPOLIS, IN 46204-1563

Agency Website: www.nlrb.gov
Telephone: (317)226-7381
Fax: (317)226-5103

Sent via email and USPS

Agent's Direct Dial: (317)226-7413

March 14, 2013

STACEY A. ZARTLER, Atty.
1201 MARINA VILLAGE PKWY
STE 302
ALAMEDA, CA 94501-1050

ALAN I. MODEL, Attorney
LITTLER MENDELSON, P.C.
ONE NEWARK CENTER
8TH FL
NEWARK, NJ 07102

Re: KINDRED TRANSITIONAL CARE AND
REHABILITATION
Case 25-CA-093878

Dear Ms. ZARTLER and Mr. MODEL:

Enclosed is a copy of the Settlement Agreement in the above matter which was approved on February 28, 2013. This letter discusses what the Employer needs to do to comply with the Agreement.

Post Notice: Enclosed are 10 copies of the Notice to Employees. In compliance with the Agreement, a responsible official of the Employer, not the Employer's attorney, must sign and date the Notices before posting them. The Notices should be posted in the employee breakroom for 60 consecutive days at the Employer's facility at 4301 N. Walnut Street, Muncie, Indiana. The Employer must take reasonable steps to ensure that the Notices are not altered, defaced or covered by other material. If additional Notices are required, please let me know. During the posting period, a member of the Regional Office staff may visit the Employer to inspect the Notices.

Certification of Posting: A Certification of Posting form is also enclosed. This form should be completed and returned by not later than March 21, 2013 **with two signed and dated original Notices.**

Remedial Actions:

Backpay: As provided in the Agreement, the Employer will make whole the employees named below by payment to them the amount set opposite their names:

<u>Name</u>	<u>Backpay Amount</u>	<u>Interest Amount</u>	<u>Total</u>
(b) (6), (b) (7)(C)	\$11,793.00	\$44.00	\$11,838.00

The backpay check should be made payable to the named individual, less deductions for Social Security and withholding taxes, and should be submitted to this office for transmission to her. Backpay should be treated as wages in the year paid. (See IRS Publication 15-A for more information.) The check should be accompanied by explanatory statement reflecting the amount of the deductions. In lieu of a current W-4 form concerning Federal Income Tax Withholding, the Employer should consult IRS Publication 15 for guidance.

A separate check should be prepared for the interest owed to the individual. No deductions should be made from the interest amount.

Reinstatement: The Agreement provides that the Employer will offer (b) (6), (b) (7)(C) immediate and full reinstatement to (b) (6), (b) (7)(C) former job or, if that job no longer exists, to a substantially equivalent position, without prejudice to (b) (6), (b) (7)(C) seniority or the other rights and privileges (b) (6), (b) (7)(C) previously enjoyed. A copy of the letter offering (b) (6), (b) (7)(C) reinstatement should be furnished to this office.

Expungement of Records: The Agreement further provides that the Employer will expunge from its records any reference of the discharge of (b) (6), (b) (7)(C) and notify (b) (6), (b) (7)(C) in writing that this has been done and that (b) (6), (b) (7)(C) discharge will not be used against (b) (6), (b) (7)(C) in any way. The Employer should provide this office with a copy of the letter notifying (b) (6), (b) (7)(C) of this expungement.

Other Remedies: The Agreement also provides that the Employer will repeal the following sections of its social media policy: "Off Duty Use of Social Media – Disclaimer", "Restriction on Customers, Clients, Vendors, Products and Services", "Proprietary and Confidential Information", "Media Contacts", and "Right to Monitor".

Please read all the terms of the Settlement Agreement and Notice carefully, as you will be expected to comply with all such provisions. If you have any questions or I can assist you, please let me know.

Closing the Case: When all the affirmative terms of the Settlement Agreement have been fully complied with and there are no reported violations of its negative terms, you will be notified that the case has been closed on compliance. Timely receipt of the signed and dated Notice to Employees and the Certification of Posting will assist us in closing the case in a timely manner.

Very truly yours,

/s/ *Lisabeth A. Luther*

LISABETH A. LUTHER
Compliance Officer

Enclosures: Copy of Settlement Agreement
Notices to Employees
Certification of Posting

CERTIFICATION OF POSTING

RE: KINDRED TRANSITIONAL CARE AND REHABILITATION
Case 25-CA-093878

1. Physical Posting

The Notice to Employees in the above matter was posted on (date) _____
at the following locations: (List specific places of posting)

CHARGED PARTY/RESPONDENT

By: _____

Title: _____

Date: _____

This form should be returned to the Regional Office, together with **TWO** original Notices, dated and signed in the same manner as those posted.

CERTIFICATION OF POSTING

RE: KINDRED TRANSITIONAL CARE AND REHABILITATION
Case 25-CA-093878

1. Physical Posting

The Notice to Employees in the above matter was posted on (date) 3-21-13
at the following locations: (List specific places of posting)

BEKAR ROOM

CHARGED PARTY/RESPONDENT

(b) (6), (b) (7)(C)

By

Title: **(b) (6), (b) (7)(C)**

Date: 3-21-13

This form should be returned to the Regional Office, together with **TWO** original Notices, dated and signed in the same manner as those posted.

RECEIVED
ALRB REGION 25
2013 APR -4 A 10:18

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
SETTLEMENT AGREEMENT

IN THE MATTER OF

KINDRED NURSING CENTERS LIMITED PARTNERSHIP, d/b/a Case 25-CA-093878
KINDRED TRANSITIONAL CARE AND REHABILITATION -
MUNCIE

Subject to the approval of the Regional Director for the National Labor Relations Board, the Charged Party and the Charging Party **HEREBY AGREE TO SETTLE THE ABOVE MATTER AS FOLLOWS:**

POSTING OF NOTICES — After the Regional Director has approved this Agreement, the Regional Office will send copies of the approved Notices to the Charged Party in English and in additional languages if the Regional Director decides that it is appropriate to do so. A responsible official of the Charged Party will then sign and date those Notices and immediately post them in the employee break room at the Charged Party's facility located at 4301 N. Walnut Street, Muncie, Indiana. The Charged Party will keep all Notices posted for 60 consecutive days after the initial posting.

COMPLIANCE WITH NOTICE — The Charged Party will comply with all the terms and provisions of said Notice.

NON-ADMISSION CLAUSE — By entering into this Settlement Agreement, the Charged Party does not admit that it has violated the National Labor Relations Act.

BACKPAY — Within 14 days from approval of this agreement, the Charged Party will make whole the employee(s) named below by payment to each of them of the amount opposite each name. The Charged Party will make appropriate withholdings for each named employee. No withholdings should be made from the interest portion of the backpay.

<u>NAME</u>	<u>WAGES</u>	<u>INTEREST</u>	<u>TOTAL</u>
(b) (6), (b) (7)(C)	\$11,793.00	\$44	\$11,838.00

SCOPE OF THE AGREEMENT — This Agreement settles only the following allegations in the above-captioned case(s), and does not settle any other case(s) or matters: (1) the Charged Party's maintenance of the following provisions in its social media policy since about May 29, 2012: "Off Duty Use of Social Media – Disclaimer", "Restriction on Customers, Clients, Vendors, Products and Services", "Proprietary and Confidential Information", "Media Contacts", and "Right to Monitor", (2) the Charged Party's discharge of the Charging Party on September 14, 2012, for refusing to sign the social media policy and for her protected concerted activities in raising complaints about the social media policy, and (3) the Charged Party's September 2012 threats of discharge to employees for failing to sign the social media policy.

It does not prevent persons from filing charges, the General Counsel from prosecuting complaints, or the Board and the courts from finding violations with respect to matters that happened before this Agreement was approved regardless of whether General Counsel knew of those matters or could have easily found them out. The General Counsel reserves the right to use the evidence obtained in the investigation and prosecution of the above-captioned case(s) for any relevant purpose in the litigation of this or any other case(s), and a judge, the Board and the courts may make findings of fact and/or conclusions of law with respect to said evidence.

PARTIES TO THE AGREEMENT — If the Charging Party fails or refuses to become a party to this Agreement and the Regional Director determines that it will promote the policies of the National Labor Relations Act, the Regional Director may approve the settlement agreement and decline to issue or reissue a Complaint in this matter. If that occurs, this Agreement shall be between the Charged Party and the undersigned Regional Director. In that case, a Charging Party may request review of the decision to approve

the Agreement. If the General Counsel does not sustain the Regional Director's approval, this Agreement shall be null and void.

AUTHORIZATION TO PROVIDE COMPLIANCE INFORMATION AND NOTICES DIRECTLY TO CHARGED PARTY — Counsel for the Charged Party authorizes the Regional Office to forward the cover letter describing the general expectations and instructions to achieve compliance, a conformed settlement, original notices and a certification of posting directly to the Charged Party. If such authorization is granted, Counsel will be simultaneously served with a courtesy copy of these documents.

Yes _____ No _____
Initials Initials

PERFORMANCE — Performance by the Charged Party with the terms and provisions of this Agreement shall commence immediately after the Agreement is approved by the Regional Director, or if the Charging Party does not enter into this Agreement, performance shall commence immediately upon receipt by the Charged Party of notice that no review has been requested or that the General Counsel has sustained the Regional Director.

The Charged Party agrees that in case of non-compliance with any of the terms of this Settlement Agreement by the Charged Party, and after 14 days notice from the Regional Director of the National Labor Relations Board of such non-compliance without remedy by the Charged Party, the Regional Director will issue a complaint that will include the allegations spelled out above in the Scope of Agreement section. Thereafter, the General Counsel may file a motion for default judgment with the Board on the allegations of the complaint. The Charged Party understands and agrees that all of the allegations of the complaint will be deemed admitted and it will have waived its right to file an Answer to such complaint. The only issue that may be raised before the Board is whether the Charged Party defaulted on the terms of this Settlement Agreement. The Board may then, without necessity of trial or any other proceeding, find all allegations of the complaint to be true and make findings of fact and conclusions of law consistent with those allegations adverse to the Charged Party on all issues raised by the pleadings. The Board may then issue an order providing a full remedy for the violations found as is appropriate to remedy such violations. The parties further agree that a U.S. Court of Appeals Judgment may be entered enforcing the Board order ex parte, after service or attempted service upon Charged Party/Respondent at the last address provided to the General Counsel. In addition, the provisions in this paragraph will be effective for the 12 months immediately following the approval of this Agreement.

NOTIFICATION OF COMPLIANCE — Each party to this Agreement will notify the Regional Director in writing what steps the Charged Party has taken to comply with the Agreement. This notification shall be given within 5 days, and again after 60 days, from the date of the approval of this Agreement. If the Charging Party does not enter into this Agreement, initial notice shall be given within 5 days after notification from the Regional Director that the Charging Party did not request review or that the General Counsel sustained the Regional Director's approval of this agreement. No further action shall be taken in the above captioned case(s) provided that the Charged Party complies with the terms and conditions of this Settlement Agreement and Notice.

Charged Party KINDRED NURSING CENTERS LIMITED PARTNERSHIP, d/b/a KINDRED TRANSITIONAL CARE AND REHABILITATION - MUNCIE		Charging Party (b) (6), (b) (7)(C)	
By: Name and Title (b) (6), (b) (7)(C)	Date 2/28/13	By: Name and Title	Date

Recommended By: <i>Caridad Austin</i> CARIDAD AUSTIN, Field Attorney	Date 2/28/13	Approved By: <i>[Signature]</i> Regional Director, Region 25	Date 2/28/13
---	-----------------	--	-----------------

(To be printed and posted on official Board notice form)

FEDERAL LAW GIVES YOU THE RIGHT TO:

- Form, join, or assist a union;
- Choose a representative to bargain with us on your behalf;
- Act together with other employees for your benefit and protection;
- Choose not to engage in any of these protected activities.

WE WILL NOT maintain or enforce a policy which prohibits you from engaging in protected concerted activities, including the right to engage in those activities on social media websites.

WE WILL NOT discharge, threaten to discharge, or otherwise retaliate against employees because they refuse to sign a social media policy that unlawfully restricts employees' rights to engage in protected concerted activities, or because they exercise their right to discuss terms and conditions of employment with other employees and bring issues and complaints to us on behalf of themselves and other employees.

WE WILL NOT in any like or related manner interfere with your rights under Section 7 of the Act or prevent you from exercising the rights described above.

WE WILL offer (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) job back along with (b) (6), (b) (7)(C) seniority and all other rights or privileges.

WE WILL pay (b) (6), (b) (7)(C) for the wages and other benefits (b) (6), (b) (7)(C) may have lost because we fired (b) (6), (b) (7)(C).

WE WILL remove from our files all references to the discharge of (b) (6), (b) (7)(C) and **WE WILL** notify (b) (6), (b) (7)(C) in writing that this has been done and that the discharge will not be used against (b) (6), (b) (7)(C) in any way.

WE WILL repeal the following sections of our social media policy: "Off Duty Use of Social Media - Disclaimer", "Restriction on Customers, Clients, Vendors, Products and Services", "Proprietary and Confidential Information", "Media Contacts", and "Right to Monitor".

**KINDRED NURSING CENTERS LIMITED
PARTNERSHIP, d/b/a KINDRED TRANSITIONAL
CARE AND REHABILITATION - MUNCIE**

(Employer)

Dated: 2/28/13

(b) (6), (b) (7)(C)

The National Labor Relations Board is an independent Federal agency created in 1935 to enforce the National Labor Relations Act. We conduct secret-ballot elections to determine whether employees want union representation and we investigate and remedy unfair labor practices by employers and unions. To find out more about your rights under the Act and how to file a charge or election petition, you may speak confidentially to any agent with the Board's Regional Office set forth below or you may call the Board's toll-free number 1-866-667-NLRB (1-866-667-6572). Hearing impaired persons may contact the Agency's TTY service at 1-866-315-NLRB. You may also obtain information from the Board's website: www.nlrb.gov.

575 N PENNSYLVANIA ST
STE 238
INDIANAPOLIS, IN 46204-1563

Telephone: (317) 226-7381
Hours of Operation: 8:30 a.m. to 5 p.m.



June 20, 2013

Via Facsimile (317) 226-5103 and U.S. Mail

Lisabeth A. Luther
NLRB, Region 25
575 N. Pennsylvania Street, Suite 238
Indianapolis, Indiana 46204-1563

***Re: Kindred Transitional Care and Rehabilitation-
Muncie/(b) (6), (b) (7)(C); (25-CA-093878)***

Dear Ms. Luther:

Per your letter dated May 23, 2013, enclosed please find the Employer's Confirmation of 60-Day Posting. Please contact me if you have any questions.

RECEIVED
NLRB REGION 25
2013 JUN 20 P 2:13

Very truly yours,

A handwritten signature in cursive script that reads "Stacey A. Zartler".

Stacey A. Zartler

Kindred Healthcare, Inc.
Labor Relations Counsel

CONFIRMATION OF 60-DAY POSTING

KINDRED TRANSITIONAL CARE AND REHABILITATION
25-CA-093878

The Notice to Employees provided by the National Labor Relations Board in the
above matter remained continuously and conspicuously posted for at least 60 days

CHARGED PARTY/RESPONDENT

By: Stacy A. Zark

Title: Labor Relations Counsel

Date: 6/19/13

RECEIVED
NLRB REGION 25

2013 JUN 20 P 2:13



June 20, 2013

Via Facsimile (317) 226-5103 and U.S. Mail

Lisabeth A. Luther
NLRB, Region 25
575 N. Pennsylvania Street, Suite 238
Indianapolis, Indiana 46204-1563

***Re: Kindred Transitional Care and Rehabilitation-
Muncie/(b) (6), (b) (7)(C); (25-CA-093878)***

Dear Ms. Luther:

Per your letter dated May 23, 2013, enclosed please find the Employer's Confirmation of 60-Day Posting. Please contact me if you have any questions.

Very truly yours,

A handwritten signature in cursive script that reads "Stacey A. Zartler".

Stacey A. Zartler

Kindred Healthcare, Inc.
Labor Relations Counsel

RECEIVED
NLRB REGION 25
2013 JUN 24 P 12:13

CONFIRMATION OF 60-DAY POSTING

**KINDRED TRANSITIONAL CARE AND REHABILITATION
25-CA-093878**

The Notice to Employees provided by the National Labor Relations Board in the above matter remained continuously and conspicuously posted for at least 60 days.

CHARGED PARTY/RESPONDENT

By: Stacy A. Zark

Title: Labor Relations Counsel

Date: 6/19/13

RECEIVED
NLRB REGION 25
2013 JUN 24 P 12:13



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 25
575 N Pennsylvania St Ste 238
Indianapolis, IN 46204-1520

Agency Website: www.nlrb.gov
Telephone: (317)226-7381
Fax: (317)226-5103

September 27, 2013

STACEY A. ZARTLER, Atty.
1201 Marina Village Pkwy
Ste 302
Alameda, CA 94501-1050

ALAN I. MODEL, ESQ.
LITTLER MENDELSON PC
ONE NEWARK CENTER FL 8
1085 RAYMOND BLVD
NEWARK, NJ 07102-5235

Re: KINDRED TRANSITIONAL CARE AND
REHABILITATION
Case 25-CA-093878

Dear Ms. ZARTLER and Mr. MODEL:

The above-captioned case has been closed on compliance. However, this Office may institute further proceedings if subsequent violations occur.

Very truly yours,

A handwritten signature in black ink, reading "Rik Lineback", is positioned below the "Very truly yours," text.

RIK LINEBACK
Regional Director

cc: DEE HARROLD, ADMINISTRATOR
KINDRED TRANSITIONAL CARE
AND REHABILITATION
4301 N Walnut St
Muncie, IN 47303-1190

(b) (6), (b) (7)(C)

A large black rectangular redaction box covers the bottom portion of the document, starting below the "cc:" list and extending to the bottom edge.



INTERNET
FORM NLRB-501
(2-08)

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER

FORM EXEMPT UNDER 44 U.S.C. 3512

DO NOT WRITE IN THIS SPACE

Case

03-CA-104426

Date Filed

5/6/2013

INSTRUCTIONS:

File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

a. Name of Employer

First Student, Inc.

b. Tel. No. 866-244-6383

c. Cell No.

f. Fax No.

g. e-Mail

h. Number of workers employed

d. Address (Street, city, state, and ZIP code)

600 Vine Street, Suite 1400
Cincinnati, OH 45202

e. Employer Representative

Felicia Gabbard

i. Type of Establishment (factory, mine, wholesaler, etc.)

Transportation services

j. Identify principal product or service

Transportation

k. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (list subsections) 8(a)(3) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.

2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)

(b) (6), (b) (7)(C) is a member of SEIU Local 200United, and was employed by First Student, Inc. at its Syracuse, NY facility. First Student has a contract with the Syracuse City School District (District) to provide transportation services. On (b) (6), (b) (7)(C) 2012, (b) (6), (b) (7)(C) participated in a television news interview during which (b) (6), (b) (7)(C) expressed safety concerns about the terms and conditions of employment for bargaining unit employees who provide services to the District. The next day, First Student received a letter from (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) ordering (b) (6), (b) (7)(C) removal "from all Syracuse City School District bus routes effective immediately." On (b) (6), (b) (7)(C) 2012, (b) (6), (b) (7)(C) was terminated by First Student, thereby infringing on (b) (6), (b) (7)(C) Section 7 rights to engage in concerted activity, and in retaliation for engaging in such protected activity.

3. Full name of party filing charge (if labor organization, give full name, including local name and number)

Service Employees International Union, Local 200United

4a. Address (Street and number, city, state, and ZIP code)

1150 University Avenue, Building 5
Rochester, NY 14607

4b. Tel. No. 585-464-8880

4c. Cell No.

4d. Fax No. 585-464-8684

4e. e-Mail

5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization)

Service Employees International Union

6. DECLARATION

I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.

By Drew Blanton
(signature of representative or person making charge)

Drew Blanton/Staff Attorney
(Printtype name and title or office, if any)

Tel. No. 585-464-8880 x-303

Office, if any, Cell No.

Fax No. 585-464-8684

e-Mail

dblanton@local200united.org

Address 1150 University Ave., Bldg. 5, Rochester, NY 14607

5/6/2013

(date)

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 3
130 S ELMWOOD AVE
STE 630
BUFFALO, NY 14202-2387

Agency Website: www.nlrb.gov
Telephone: (716)551-4931
Fax: (716)551-4972

May 6, 2013

DREW BLANTON, ESQ., Staff Attorney
SERVICE EMPLOYEES INTERNATIONAL UNION, LOCAL 200UNITED
1150 UNIVERSITY AVE
BLDG 5, DOOR H
ROCHESTER, NY 14607-1647

Re: First Student, Inc.
Case 03-CA-104426

Dear Mr. BLANTON:

The charge that you filed in this case on May 6, 2013 has been docketed as case number 03-CA-104426. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge will be investigated by Field Examiner DAVID M. TURNER whose telephone number is (518)431-4160. The mailing address is 11A CLINTON AVE STE 342, ALBANY, NY 12207-2366. If the Board agent is not available, you may contact Resident Officer BARNETT L. HOROWITZ whose telephone number is (518)431-4156.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing *Form NLRB-4701, Notice of Appearance*. This form is available on our website, www.nlrb.gov, or at the Regional office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.


Presentation of Your Evidence: As the party who filed the charge in this case, it is your responsibility to meet with the Board agent to provide a sworn affidavit, or provide other witnesses to provide sworn affidavits, and to provide relevant documents within your possession. Because we seek to resolve labor disputes promptly, you should be ready to promptly present your affidavit(s) and other evidence. If you have not yet scheduled a date and time for the Board agent to take your affidavit, please contact the Board agent to schedule the affidavit(s). If you fail to cooperate in promptly presenting your evidence, your charge may be dismissed without investigation.

Procedures: We strongly urge everyone to submit all documents and other materials (except unfair labor practice charges and representation petitions) by E-Filing (not e-mailing) through our website www.nlr.gov. However, the Agency will continue to accept timely filed paper documents. Please include the case name and number indicated above on all your correspondence regarding the charge.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website www.nlr.gov or from the Regional Office upon your request. *NLRB Form 4541, Investigative Procedures* offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

A handwritten signature in black ink that reads "Rhonda P. Ley". The signature is written in a cursive, flowing style.

RHONDA P. LEY
Regional Director



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 3
130 S ELMWOOD AVE
STE 630
BUFFALO, NY 14202-2387

Agency Website: www.nlrb.gov
Telephone: (716)551-4931
Fax: (716)551-4972

May 6, 2013

FELICIA GABBARD
FIRST STUDENT, INC.
600 VINE ST
STE 1400
CINCINNATI, OH 45202-2426

Re: First Student, Inc.
Case 03-CA-104426

Dear Ms. GABBARD:

Enclosed is a copy of a charge that has been filed in this case. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Field Examiner DAVID M. TURNER whose telephone number is (518)431-4160. The mailing address is 11A CLINTON AVE STE 342, ALBANY, NY 12207-2366. If this Board agent is not available, you may contact Resident Officer BARNETT L. HOROWITZ whose telephone number is (518)431-4156.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing Form NLRB-4701, Notice of Appearance. This form is available on our website, www.nlrb.gov, or from an NLRB office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Presentation of Your Evidence: We seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit a complete written account of the facts and a statement of your position with respect to the allegations set forth in the charge as soon as possible. If the Board agent later asks for more evidence, I strongly urge you or your representative to cooperate fully by promptly presenting all evidence relevant to the investigation. In this way, the case can be fully investigated more quickly.

Full and complete cooperation includes providing witnesses to give sworn affidavits to a Board agent, and providing all relevant documentary evidence requested by the Board agent. Sending us your written account of the facts and a statement of your position is not enough to be considered full and complete cooperation. A refusal to fully cooperate during the investigation might cause a case to be litigated unnecessarily.

In addition, either you or your representative must complete the enclosed Commerce Questionnaire to enable us to determine whether the NLRB has jurisdiction over this dispute. If you recently submitted this information in another case, or if you need assistance completing the form, please contact the Board agent.

We will not honor any request to place limitations on our use of position statements or evidence beyond those prescribed by the Freedom of Information Act and the Federal Records Act. Thus, we will not honor any claim of confidentiality except as provided by Exemption 4 of FOIA, 5 U.S.C. Sec. 552(b)(4), and any material you submit may be introduced as evidence at any hearing before an administrative law judge. We are also required by the Federal Records Act to keep copies of documents gathered in our investigation for some years after a case closes. Further, the Freedom of Information Act may require that we disclose such records in closed cases upon request, unless there is an applicable exemption. Examples of those exemptions are those that protect confidential financial information or personal privacy interests.

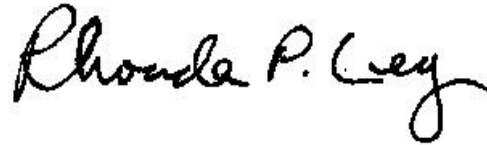
Procedures: We strongly urge everyone to submit all documents and other materials (except unfair labor practice charges and representation petitions) by E-Filing (not e-mailing) through our website, www.nlr.gov. However, the Agency will continue to accept timely filed paper documents. Please include the case name and number indicated above on all your correspondence regarding the charge.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website, www.nlr.gov or from an NLRB office upon your request. NLRB Form 4541 offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

May 6, 2013

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

A handwritten signature in black ink that reads "Rhonda P. Ley". The signature is written in a cursive style with a large, stylized 'R' and a long, sweeping tail on the 'y'.

RHONDA P. LEY
Regional Director

Enclosures:

1. Copy of Charge
2. Commerce Questionnaire

cc: SHANT ZAKARIAN
FIRSTGROUP AMERICA
600 N 22ND ST
PHILADELPHIA, PA 19130-3163

INTERNET
FORM NLRB-501
(2-08)UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER

FORM EXEMPT UNDER 44 U.S.C. 3512

DO NOT WRITE IN THIS SPACE

Case

Date Filed

INSTRUCTIONS:

File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

a. Name of Employer

First Student, Inc.

b. Tel. No. 866-244-6383

c. Cell No.

f. Fax No.

g. e-Mail

h. Number of workers employed

d. Address (Street, city, state, and ZIP code)

600 Vine Street, Suite 1400

Cincinnati, OH 45202

e. Employer Representative

Felicia Gabbard

i. Type of Establishment (factory, mine, wholesaler, etc.)

Transportation services

j. Identify principal product or service

Transportation

k. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (list subsections) _____ of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.

2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)

At all times in the six months prior to the filing of the charge, the Employer has maintained an overly broad rule requiring employees to obtain authorization before discussing terms of employment.

In about (b) (6), (b) (7)(C) 2012, the Employer terminated employee (b) (6), (b) (7)(C) because (b) (6), (b) (7)(C) engaged in protected activity.

3. Full name of party filing charge (if labor organization, give full name, including local name and number)

Service Employees International Union, Local 200United

4a. Address (Street and number, city, state, and ZIP code)

1150 University Avenue, Building 5

Rochester, NY 14607

4b. Tel. No. 585-464-8880

4c. Cell No.

4d. Fax No. 585-464-8684

4e. e-Mail

5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization) Service Employees International Union

6. DECLARATION

I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.

By



(signature of representative or person making charge)

Drew Blanton/Staff Attorney

(Print/type name and title or office, if any)

Tel. No. 585-464-8880 x-303

Office, if any, Cell No.

Fax No. 585-464-8684

e-Mail

dblanton@local200united.org

Address 1150 University Ave., Bldg. 5, Rochester, NY 14607

5/28/2013

(date)

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 3
130 S ELMWOOD AVE
STE 630
BUFFALO, NY 14202-2387

Agency Website: www.nlrb.gov
Telephone: (716)551-4931
Fax: (716)551-4972

May 28, 2013

FELICIA GABBARD
FIRST STUDENT, INC.
600 VINE ST
STE 1400
CINCINNATI, OH 45202-2426

Re: First Student, Inc.
Case 03-CA-104426

Dear Ms. GABBARD:

Enclosed is a copy of the first amended charge that has been filed in this case.

Investigator: This charge is being investigated by Field Examiner DAVID M. TURNER whose telephone number is (518) 431-4160. The mailing address is 11A CLINTON AVE STE 342, ALBANY, NY 12207-2366. If the agent is not available, you may contact Resident Officer BARNETT L. HOROWITZ whose telephone number is (518) 431-4156.

Presentation of Your Evidence: As you know, we seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit a complete written account of the facts and a statement of your position with respect to the allegations in the first amended charge as soon as possible. If the Board agent later asks for more evidence, I strongly urge you or your representative to cooperate fully by promptly presenting all evidence relevant to the investigation. In this way, the case can be fully investigated more quickly.

Procedures: Your right to representation, the means of presenting evidence, and a description of our procedures, including how to submit documents, was described in the letter sent to you with the original charge in this matter. If you have any questions, please contact the Board agent.

Very truly yours,

RHONDA P. LEY
Regional Director

First Student, Inc.
Case 03-CA-104426

- 2 -

May 28, 2013

Enclosure: Copy of first amended charge

cc: SHANT ZAKARIAN
FIRSTGROUP AMERICA
600 N 22ND ST
PHILADELPHIA, PA 19130-3163



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 3
130 S ELMWOOD AVE
STE 630
BUFFALO, NY 14202-2387

Agency Website: www.nlrb.gov
Telephone: (716)551-4931
Fax: (716)551-4972

May 28, 2013

DREW BLANTON, ESQ., Staff Attorney
SERVICE EMPLOYEES INTERNATIONAL UNION, LOCAL 200UNITED
1150 UNIVERSITY AVE
BLDG 5, DOOR H
ROCHESTER, NY 14607-1647

Re: First Student, Inc.
Case 03-CA-104426

Dear Mr. BLANTON:

We have docketed the first amended charge that you filed in this case.

Investigator: This charge is being investigated by Field Examiner DAVID M. TURNER whose telephone number is (518) 431-4160. The mailing address is 11A CLINTON AVE STE 342, ALBANY, NY 12207-2366. If the agent is not available, you may contact Resident Officer BARNETT L. HOROWITZ whose telephone number is (518)431-4156.

Presentation of Your Evidence: As the party who filed the charge in this case, it is your responsibility to meet with the Board agent to provide a sworn affidavit, or provide other witnesses to provide sworn affidavits, and to provide relevant documents within your possession. If you have additional evidence regarding the allegations in the first amended charge and you have not yet scheduled a date and time for the Board agent to obtain that evidence, please contact the Board agent to arrange to present that evidence. If you fail to cooperate in promptly presenting your evidence, your charge may be dismissed.

Procedures: Your right to representation, the means of presenting evidence, and a description of our procedures, including how to submit documents, was described in the letter sent to you with the original charge in this matter. If you have any questions, please contact the Board agent.

Very truly yours,

RHONDA P. LEY
Regional Director

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 3**

FIRST STUDENT, INC.

and

Case 03-CA-104426

**SERVICE EMPLOYEES INTERNATIONAL
UNION, LOCAL 200 UNITED**

COMPLAINT AND NOTICE OF HEARING

This Complaint and Notice of Hearing is based on a charge filed by Service Employees International Union, Local 200 United (Union). It is issued pursuant to Section 10(b) of the National Labor Relations Act, 29 U.S.C. § 151 et seq. (the Act), and Section 102.15 of the Rules and Regulations of the National Labor Relations Board (the Board) and alleges that First Student, Inc. (Respondent) has violated the Act as described below:

I

(a) The original charge in this proceeding was filed by the Union on May 6, 2013, and a copy was served by regular mail on Respondent on the same date.

(b) The amended charge in this proceeding was filed by the Union on May 28, 2013, and a copy was served by regular mail on Respondent on the same date.

II

(a) At all material times, Respondent has been a corporation, with an office and place of business in Syracuse, New York, (Respondent's facility) where it provides transportation services to school districts throughout the United States.

(b) Annually, Respondent derives gross revenues in excess of \$250,000.

(c) During the period of time described above in paragraph II(b), Respondent purchases and receives at its Syracuse, New York facility products, goods and materials valued in excess of \$5,000 directly from points outside the State of New York.

III

At all material times, the Respondent has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

IV

At all material times, the Union has been a labor organization within the meaning of Section 2(5) of the Act.

V

At all material times, the following individuals held the positions set forth opposite their respective names and have been supervisors of Respondent within the meaning of Section 2(11) of the Act and agents of Respondent within the meaning of Section 2(13) of the Act:

(b) (6), (b) (7)(C)	—	(b) (6), (b) (7)(C)
(b) (6), (b) (7)(C)	—	(b) (6), (b) (7)(C)

VI

Since about November 7, 2012, Respondent has maintained the following rule:

First Student Services, Inc. has a policy prohibiting employees (other than those authorized) from speaking to the media on any Company matter.

VII

(a) About (b) (6), (b) (7)(C) 2012, Respondent's employee (b) (6), (b) (7)(C) concertedly complained to the media regarding working conditions of Respondent's employees, by discussing complaints about employee safety on school buses.

(b) About (b) (6), (b) (7)(C) 2012, Respondent suspended its employee (b) (6), (b) (7)(C).

(c) About (b) (6), (b) (7)(C), 2012, Respondent terminated its employee (b) (6), (b) (7)(C)

(d) Respondent engaged in the conduct described above in paragraph VII(b) and (c) because the named employee engaged in the conduct described above in paragraph VII(a), and to discourage employees from engaging in these or other concerted activities.

VIII

By the conduct described above in paragraphs VI and VII(b) through (d), Respondent has been interfering with, restraining, or coercing employees in the exercise of the rights guaranteed in Section 7 of the Act in violation of Section 8(a)(1) of the Act.

IX

The unfair labor practices of Respondent described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

WHEREFORE, as part of the remedy for the unfair labor practices alleged above in paragraphs VII and VIII, the Acting General Counsel seeks an order requiring that the Respondent take the following affirmative action:

Preserve and, with 14 days of a request, provide at the office designated by the Board or its agents, a copy of all payroll records, social security payment records, timecards, personnel records and reports, and all other records, including an electronic copy of such records if stored in electronic form, necessary to analyze the amount of any back pay or other monetary award due under the terms of this Order. If requested, the originals of such records shall be provided to the Board or its agents in the same manner.

Reimburse (b) (6), (b) (7)(C) the amounts equal to the difference in taxes owed upon receipt of a lump-sum payment and taxes that would have been owed had there been no discrimination.

Submit the appropriate documentation to the Social Security Administration so that when backpay is paid to (b) (6), (b) (7)(C) it will be allocated to the appropriate periods.

The Acting General Counsel further seeks all other relief as may be just and proper to remedy the unfair labor practices alleged.

ANSWER REQUIREMENT

Respondent is notified that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, it must file an answer to the complaint. The answer must be **received by this office on or before July 10, 2013, or postmarked on or before July 9, 2013.** Respondent should file an original and four copies of the answer with this office and serve a copy of the answer on each of the other parties.

An answer may also be filed electronically through the Agency's website. To file electronically, go to www.nlrb.gov, click on **File Case Documents**, enter the NLRB Case Number, and follow the detailed instructions. The responsibility for the receipt and usability of the answer rests exclusively upon the sender. Unless notification on the Agency's website informs users that the Agency's E-Filing system is officially determined to be in technical failure because it is unable to receive documents for a continuous period of more than 2 hours after 12:00 noon (Eastern Time) on the due date for filing, a failure to timely file the answer will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off-line or unavailable for some other reason. The Board's Rules and Regulations require that an answer be signed by counsel or non-attorney representative for represented parties or by the party if not represented. See Section 102.21. If the answer being filed electronically is a pdf document containing the required signature, no paper copies of the answer need to be transmitted to the Regional Office. However, if the electronic version of an answer to a complaint is not a pdf file containing the required signature, then the E-filing rules require that such answer containing the required signature continue to be submitted to the Regional Office by traditional means within three (3) business days after the date of electronic filing. Service of the

answer on each of the other parties must still be accomplished by means allowed under the Board's Rules and Regulations. The answer may not be filed by facsimile transmission. If no answer is filed, or if an answer is filed untimely, the Board may find, pursuant to a Motion for Default Judgment, that the allegations in the complaint are true.

NOTICE OF HEARING

PLEASE TAKE NOTICE THAT on September 9, 2013 at 1:00 p.m., at James M. Hanley Federal Building, 100 South Clinton Street, Room 843, Syracuse, New York and on consecutive days thereafter until concluded, a hearing will be conducted before an administrative law judge of the National Labor Relations Board. At the hearing, Respondent and any other party to this proceeding have the right to appear and present testimony regarding the allegations in this complaint. The procedures to be followed at the hearing are described in the attached Form NLRB-4668. The procedure to request a postponement of the hearing is described in the attached Form NLRB-4338.

DATED at Buffalo, New York, this 26th day of September 2013.

/s/RHONDA P. LEY

RHONDA P. LEY
REGIONAL DIRECTOR
NATIONAL LABOR RELATIONS BOARD
REGION 03
130 S ELMWOOD AVE
STE 630
BUFFALO, NY 14202-2387

Attachments

3. Respondent admits the allegations contained in Paragraph 3 of the Complaint.
4. Respondent admits the allegations contained in Paragraph 4 of the Complaint.
5. Respondent admits the allegations contained in Paragraph 5 of the Complaint.
6. Respondent denies the allegations contained in Paragraph 6 of the Complaint.
7. Respondent denies the allegations contained in Paragraph 7(a) of the Complaint.
8. Respondent denies the allegations contained in Paragraph 7(b) of the Complaint.
9. Respondent denies the allegations contained in Paragraph 7(c) of the Complaint.
10. Respondent denies the allegations contained in Paragraph 7(d) of the Complaint.
11. Respondent denies the allegations contained in Paragraph 8 of the Complaint.
12. Respondent denies the allegations contained in Paragraph 9 of the Complaint.

Affirmative Defenses

13. Because the Senate was not in recess at the time he appointed them to the Board, the President did not have the power under the Constitution to recess-appoint Members Block and Griffin, as a result of which the Board has not had the statutorily-mandated three-member quorum required for it to act since their constitutionally-invalid appointments were made, thus depriving the Board of the power, authority and jurisdiction to adjudicate this case and mandating that the Complaint be dismissed.
14. First Student hereby gives notice that it intends to rely on any such other defenses as may become available or apparent prior to the hearing in this matter, and hereby reserves the right to amend its Answer to assert any such defenses.

Respectfully submitted,

FIRST STUDENT, INC

/s/ Shant H. Zakarian

Shant H. Zakarian

Labor Counsel/Negotiation

FirstGroup America

600 N. 22nd St.

Philadelphia, PA 19130

Shant.Zakarian@FirstGroup.com

(513) 512-0530

7/9/13

CERTIFICATE OF SERVICE

I hereby certify that, pursuant to the National Labor Relations Board's Rules and Regulations, I served the forgoing ANSWER TO COMPLAINT electronically to:

Rhonda P. Ley
Regional Director
National Labor Relations Board
Region 3
130 S. Elmwood Ave.
STE 630
Buffalo, NY 14202-2387

and one copy by regular U.S. Mail to:

Drew Blanton, Esq., Staff Attorney
Service Employees International Union, Local 200 United
1150 University Ave. Bldg 5, Door H
Rochester NY 14607-1647


Shant H. Zakarian

7/9/13

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
THIRD REGION**

FIRST STUDENT, INC.

and

Case 03-CA-104426

**SERVICE EMPLOYEES INTERNATIONAL
UNION, LOCAL 200 UNITED**

**ORDER APPROVING REQUEST FOR CONDITIONAL
WITHDRAWAL OF CHARGE AND DISMISSING
COMPLAINT AND NOTICE OF HEARING**

A Complaint and Notice of Hearing issued in the above matter on June 26, 2013. A hearing before an administrative law judge was scheduled for September 9, 2013.

On September 5, 2013, the Charging Party, Service Employees International Union, Local 200 United, requested the conditional withdrawal of the charge, based on the parties' non-Board adjustment of above matter.

IT IS HEREBY ORDERED that the Charging Party's request to withdraw the charge is approved, conditioned upon the Respondent's compliance with the terms of the non-Board resolution.

IT IS HEREBY ORDERED that the Complaint and Notice of Hearing is dismissed, subject to reinstatement for further processing upon evidence that the Respondent has failed to comply with the non-Board resolution.

DATED at Buffalo, New York, this 6th day of September, 2013.

/S/PAUL J. MURPHY

PAUL J. MURPHY, Acting Regional Director
National Labor Relations Board – Region Three
Niagara Center Building
130 S. Elmwood Avenue, Suite 630
Buffalo, New York 14202